Business Succession in the New Zealand Horticulture Industry

Prepared for Ministry for Primary Industries

Report prepared by

Perrin Ag Consultants and Massey University

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Prepared by Perrin Ag Consultants Ltd and Massey University

Perrin Ag Consultants Ltd Registered Farm Management Consultants

1330 Eruera Street, PO Box 596

Rotorua 3010

New Zealand

Phone +64 7 349 1212 Email:
consult@perrinag.net.nz
www.perrinag.net.nz

Massey University Manawatu
Private Bag 11 222
Palmerston North 4442
New Zealand

Phone +64 6 356 9099
Email: I.A.McCarthy@massey.ac.nz www.massey.ac.nz

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Document Quality Assurance

Authors:	**Iona McCarthy** MBS (Valuation and Property Management), FPINZ Senior Lecturer School of Economics and Finance Massey University **Liz Dooley** PhD (Agricultural Systems and Management), MNZIPIM Senior Consultant (Research) Perrin Ag Consultants Ltd	
Reviewed by:	**Lee Matheson** BApplSc (Hons), MNZIPIM (Reg.), ASNM Managing Director	
Approved for release by:	**Lee Matheson** BApplSc (Hons), MNZIPIM (Reg.), ASNM Managing Director	
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Executive Summary

- The horticultural industry identified limited succession opportunities for the incoming generation to gain equity in the industry with the high land prices, and aging owners' reduced ability to exit as concerns.
- Perrin Ag Consultants and Massey University were contracted by the Ministry for Primary Industries to investigate financial and business mechanisms in horticulture and agriculture, both nationally and internationally, that can facilitate the incoming generation succeeding to horticultural businesses or building equity in horticultural careers. The brief was to describe the models available with an expanded description of 10 of the models, and to make recommendations of financial and industry initiatives to facilitate succession.
- Information on succession financial and business mechanisms was sourced from academic literature, industry reports, press articles and websites (e.g. succession resources on industry and business websites), both in New Zealand and internationally, and across primary industry sectors. Fourteen people from a range of horticultural industries and regions were also interviewed. They had a broad knowledge of the sectors they worked in and were familiar with local horticultural growers, so could provide informed comment on succession in their sectors and regions.
- Twenty-one models were identified. This included options that those with limited capital in the incoming generation can use to build equity and assets such as contracting and long-term leasing, to options that require considerably more investment capital such as ground leasing, equity partnerships and sole ownership. Most models are already used in New Zealand or overseas. Vine rights is a proposed option.
- Descriptions (2 to 4 pages) of the financial and business mechanisms are provided for 11 options: sole trader, long-term lease, ground lease, ground lease on Māori freehold land, vine rights, sharefarming, equity partnership, managed syndicate, joint venture, contracting, and cooperatives. Information provided includes: a brief description; a hypothetical case study primarily from the incoming generation's perspective; a diagram showing legal structures, parties involved, asset ownership, agreements, and capital and asset flows between parties; a table with factors for consideration by the various parties (i.e. security of land control, equity, affordability, flexibility, communication, control and requirements, access to capital, risk and return); and examples derived from literature and interviewees. A family case example is provided for equity partnerships which are becoming increasingly popular for family succession. These enable multiple owners, easy asset transfer, and structured governance and management.
- Financial and industry recommendations to facilitate succession or remove barriers for more horticultural succession were identified (Section 10). Factors leading to increased and/or more effective succession were identified e.g. cost reduction, availability of finance, better opportunity awareness, more opportunities available, better knowledge of models, assistance with the process.
- Awareness-raising is a key priority and the report recommends providing succession support and upskilling for growers and the incoming generation to increase knowledge and understanding. Information identified in this report would be included. Better understanding may also encourage growers to provide opportunities, and the incoming generation to be proactive, which were also recommended.
- Another example of a recommendation is a matching services platform to advertise opportunities and provide access to a range of tools and information. This has had some success overseas. This platform could also incorporate an expertise register.

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1. Introduction

Project brief

The horticultural industry has identified limited succession opportunities for the incoming generation to gain equity in the industry and aging owners as a concern. This issue is well-recognised as a concern across primary industry sectors, both nationally and internationally. Hence, Perrin Ag Consultants and Massey University were contracted by the Ministry for Primary Industries to investigate financial and business models used in horticulture and the primary industries, both nationally and internationally, that can facilitate the incoming generation succeeding to horticultural businesses or building equity in horticultural careers.

Challenges to succession: cost and uncertainty

Succession is a complex issue. Industry dynamics, and poor availability and reliability of knowledge and advice, and people dynamics have contributed to this situation. Increasing horticultural business size, intensification and technology use combined with land values well in excess of productive capacity which increase at a rate exceeding earnings potential have all contributed to the high capital costs and entry costs needed. This very high capital requirement is the largest barrier to entry and business ownership. Uncertainty as to how to address succession, few recognised succession advisors available, stories about succession gone wrong leading to uncertainty as to who to trust to assist with this, and the high cost of setting up a succession plan are also deterrents: succession plans have to be tailor-made since families / people and businesses differ. These factors affect both family and non-family succession.

Challenges to succession: the owning generation in family succession

As a land-based business, many horticultural business owners want to retain the business in the family (it is suggested about half plan to do so). However, personal factors can play a large part in delays or failure to plan for family succession. The potential for family conflict over succession is a major concern. They do not want to pressure their family to return if their interests are elsewhere. They also want to treat children equally, or at least 'equitably', making it difficult to pass a business to a successor(s) and have sufficient assets for retirement and other children. A successor is unlikely to be able to purchase a family business outright, and parents may need to retain an interest in the business for their lifetime with final settlement via the will, particularly where succession is addressed later. Some siblings may also be willing to retain a stake in the business. Asset protection, and the impact of a successor's relationship breakup is also a concern i.e. could result in forced sale of business to split assets. An unwillingness to discuss the topic with family, and an often-unfounded belief that they know what family want, can also lead to delays, ill-informed decisions and missed opportunities. Succession plans can breakdown because of an unwillingness to pass on control.

The incoming generation

On the other hand, potential family successors are usually well-educated and many have careers. Parents' long hours and commitment to the business may have disillusioned them from being interested in horticulture. Those interested can be hesitant to raise succession as they do not want to be perceived as being greedy and it is an uncomfortable conversation. They also need surety that they will benefit from their greater input into the business contributing to business growth and increased productivity over time, rather than assets eventually being shared equally across all siblings. In NZ agriculture, it was identified that family often returned to the family business in their late 20s and 30s having travelled and/or had a career (often outside of horticulture).

The incoming generation interested in horticultural business ownership tend to be well-educated, tech-savvy, interested in being self-employed, keen to try new ideas and have management input in the business sooner rather than later. This includes young people from non-horticultural backgrounds who are also likely to be keen on opportunities for asset ownership and / or management careers in horticulture, so career pathways and opportunities that could lead to their asset ownership are required. Horticultural businesses where family are not interested can offer opportunities for non-family to become involved in the business.

Succession process

Therefore, a succession planning process has to take all parties' views into consideration, evaluate the viability and growth potential of the business to support equitable succession and retirement, and then decide on legal and business structures to facilitate succession transfer. This final step requires informed legal and financial advice. With family succession, there is support and information available to help families with the early stages of the process largely developed by the agricultural industry. However, there is less information available on the legal and business structures: families rely on lawyers and accountants for this, with some advisors better informed than others. Some understanding of these mechanisms will allow owners planning succession to consider what might be best for their situation and engage in informed discussion with their advisors and be confident they are receiving the best advice.

Horticultural industry

Horticulture lends itself more to intensification and specialisation than pastoral agriculture, with horticulture's comparatively smaller, intensive businesses with higher value land, integrated supply chains, higher use of technology (technical and genetic), higher labour and management requirements, and potential for diversification. Consequently, opportunities for the incoming generation can be diverse and specialised, with more career opportunities, and easier integration of more than one successor compared to agriculture because of very high per hectare returns, better diversification opportunities and multiple roles available.

It has been suggested that it is easier to access capital in horticulture than agriculture, with horticulture being a growing industry with high return on capital and cashflow. However, the high value of horticultural land and businesses and the level of technology required can still make land ownership difficult to aspire to in terms of capital required and access to capital. The incoming generation can struggle with debt security and may rely on a guaranteed loan to access capital e.g. from family.

Variation in industry sector opportunities

Industry sectors also vary in the opportunities available for the incoming generation.

- Industries which require considerable investment, such as kiwifruit (where licences alone exceed $300,000/canopy hectare for gold) and viticulture are moving towards corporatisation. Some of these are family firms with corporate structures and behaviour. Similarly, a few firms, including notable family firms, dominate in pipfruit. This make achieving land ownership difficult. However, these industries offer a range of career opportunities for young people throughout their supply chain, with some providing opportunities for interested, competent staff working in vineyard or orchard management to purchase equity in the businesses or the orchard(s) they manage. This incentive also helps industry employment retention.
- Vegetable growing still largely remains a family-business dominated industry.
- Specialised ventures, such as bulb-growing or flowers are often small enterprises driven by enthusiastic entrepreneurs with expertise and contacts to develop their businesses. These businesses often do not survive once the key person retires.

Affordability of options to achieve business and land ownership in horticulture

Affordability of the options for asset building and ownership for the incoming generation also vary.

- Contracting can require minimal capital to establish, enabling the owner to build wealth from their hard work and contracting returns. Another advantage is the opportunity to build strong industry contacts which can lead to opportunities. Contracting businesses can be grow and developed, ultimately offering specialist services (requiring expensive technology) or full orchard management services (range of machinery) and employing staff. Hence, contracting can provide a career / business opportunity in itself without the need to own land, particularly in an industry with considerable corporate ownership.
- Short-term leasing (bare land), long-term leasing of established businesses and sharefarming can be affordable options early-to mid-career requiring less capital (no land purchase) and fewer assets. These can also be useful options in a family situation, providing the incoming generation some independence in decisions and possibly reduced conflict, as well as the opportunity to build equity from higher returns and driving production.
- An equity partnership or small joint venture with limited initial capital requirement may also be affordable. Family business equity partnerships are often used for succession. Some corporate businesses offer equity opportunities in orchards to experienced and promising young managers i.e. small ownership stake in a larger business.
- Other options require considerable investment capital because of development costs and / or land ownership e.g. ground leases (develop the orchard or vineyard), vine rights on unimproved land (a proposed option), equity partnerships, and managed syndicates (similar to a larger joint venture with investors). The incoming generation is likely to be experienced and mid- to later- in their career to have built sufficient equity to invest in these businesses.
- A small stake (e.g. 10% or less which would still be a considerable amount) in one of these larger businesses may be possible with less equity than full ownership of a smaller business, with a role as an equity-manager and the opportunity to increase equity / ownership over time by buying out other investors.

Structures in horticultural businesses

Nationally and internationally, legal structures used for businesses, including primary industry businesses, tend to be limited liability companies, limited partnerships, trusts, ordinary partnerships and sole owners. However, businesses vary in the ways these structures are used, and often innovative combinations of these structures are used to capture the strengths of the various structures e.g. companies for longevity, transferability and limited liability; trusts for asset protection; limited partnerships can provide tax advantages (with losses) over companies for individuals. Furthermore, many of the arrangements are supported by legal agreements (Section 3.3). Businesses models used in the industry, such as leasing, equity partnerships, syndicates and contracting are widely used because they have proved to be effective business models which offer opportunities for the incoming generation and benefits for the outgoing generation or for investors. Many horticulture businesses have been established more recently than those in agriculture and consequently, have been set up with structures such as companies which are more flexible in facilitating succession.

The information on structures in this report can provide a generic understanding of the various options. However, anyone considering entering into any of the options described will need legal and financial advice. Lawyers, accountants, bankers and possibly financial planners should be consulted in planning. Consultants (farm or horticulture) can assist with facilitation (for family succession) and advise on business growth potential. Professionals are available who specialise in succession planning. The parties are advised to work with lawyers and accountants experienced in succession planning: this is a topic their tax accountants may not be familiar with. All parties should have a current will, memorandum of understanding, and powers of attorney, and should ensure these are up to date.

Future land and business owners

Horticulture is also more diverse that agriculture in the types of employees, range of employment roles and length of employment: most (about 80%) employees in the horticultural industry are seasonal, short-term or casual employees (Timmins, 2009[1]). It can be speculated that industry successors are more likely to come from the 20% of permanent employees who are likely to be educated, skilled and employed in roles such as orchard managers or supervisors. External investors coming in from other industries such as technology or business may be attracted to the innovation and opportunity in horticulture, or young people returning to family businesses. Those who eventually achieve ownership will be those who are skilled and capable, hardworking, enterprising, and able to save and invest to accumulate wealth, as has always been the case particularly for those from non-family backgrounds. Succession will be expedited by offering opportunities that attract these young people.

Diversity of roles in horticulture to suit a range of ownership and career aspirations

The diversity in industries and supply chain roles ensures there are opportunities for incomers with a wide range of personalities, backgrounds and aspirations. Some want full ownership of an existing business or one they establish. Others will want interesting career opportunities or roles, as well as ownership, and will be accepting of less autonomy to achieve this. The advantages of being part of a larger business rather than owning a smaller business include: a management or specialist role in the business and potential to attain higher level management career opportunities in future, high salary and secure income, shared risk, shared knowledge and skills in the business, mentoring, opportunities for development of labour- and financial management skills, and access to new technologies than may otherwise be unaffordable.

Report

This report describes a range of financial and business structures suited to those in the incoming generation with different levels of knowledge and experience, personalities, and stage of capital accumulation (building capital to having some capital to invest in a land-based business). Those in the incoming generation may progress through a series of these financial and business models in their pathway to ownership e.g. short-term leasing, long-term leasing, equity partnership and eventually ownership. The emphasis was on those in the incoming generation pursuing horticultural industry careers or family succession of horticultural businesses, rather than external investors or those from corporate careers with capital to purchase a business.

The recommendations in the report identify financial and industry initiatives that can lead to increased and more effective succession. These will:

- attract skilled people into the industry interested in pursuing horticultural careers and succession, some of whom may have some capital to help achieve this;
- increase effective succession and opportunities through better knowledge of succession pathways and financial models; and
- increase succession opportunities by encouraging the outgoing generation to consider options.

[1] Timmins, J. (2009). Seasonal employment patterns in the horticultural industry. Statistics New Zealand and Department of Labour.

2. Method

Information sources

For this report, we investigated financial mechanisms used in horticulture and the primary industries for their ownership and business models, both nationally and internationally, that can facilitate the incoming generation succeeding to horticultural businesses or building equity in horticultural or agricultural careers. Information on succession financial mechanisms and business models was sourced from academic literature, grey literature (industry reports, press articles) and websites (e.g. industry resources for succession, industry business websites), both in New Zealand and internationally, across primary industry sectors. More information was available on agriculture than horticulture, so sourcing information from both agriculture and horticulture increased the likelihood of identifying models that could be used in horticulture.

We also interviewed 14 people (Section 13), with interviews taking about one hour. Interviewees worked across a range of horticultural industries and regions and were selected because they had a broad knowledge of the horticultural industries they worked in, were familiar with local horticultural growers and able to provide informed comment on succession in their industries and regions e.g. consultants. Some interviewees were known to the researchers, and others were referred by the funder and other interviewees. The interviews took place in April and May 2020, through the COVID-19 level 4 lockdown in New Zealand. Level 4 lockdown meant most of the interviews took place over Zoom calls. Access to interviewees was limited by COVID-19, with some people being uncontactable (no response), and others being unavailable for interviews until after June, so we were unable to interview them.

Research process

Interviews were semi-structured, and interviewees were asked about the financial mechanisms and succession models used by growers in their area / industries they were familiar with, challenges and opportunities, and their views on any financial and industry initiatives that could increase succession in the industry i.e. use of the financial and business model to achieve this. The researchers took notes individually and compared and discussed findings to determine how best to incorporate the information into results. The majority of the research took place over lockdown, so this communication was by phone, email and zoom call, with the report completed in June under COVID -19 levels 3 and 2 which enabled the researchers to meet in person to complete the report. Regular weekly or two-weekly zoom meetings were held with the funders to discuss progress.

Identification of financial and business structures

This first stage of the research report presents 21 mechanisms that can enable the incoming generation to progress in the horticultural industry, with 10 of these options plus sole operator described in greater detail. These are presented in sections according to: the division of interests (rights) in the property, the legal vehicles typically used, and a list of the parties that might be involved in the arrangement adapted from the approach used by Land for Good (2018). These categories include the following.

- Sole ownership (Section 5). Transfer is by outright purchase from one party to the other.
- Partial business ownership (Section 6, 8 leasing models, vine rights and sharefarming). Parties bring different, discrete assets and contributions to a land-based business. Three types of leasing were described in detail, as well as sharefarming which is common in agriculture but rarely used in horticulture in New Zealand, and vine rights which is a profit-a-prendre proposed model similar to forestry rights.
- Whole business with shared ownership (Section 7, equity partnership and managed syndicate). A number of parties own the entire business jointly. Equity partnership models used by investors investing in a

shared enterprise are also popular with families to facilitate succession. The example given for this option is a family model.

- Alternative and separate businesses (Section 8, contracting and joint ventures). Contractors have discrete businesses providing a service to other land-based businesses. Assets tend to be predominantly machinery. A joint venture was defined as a new, discrete business with two or more parties, in which one party provides the land and the other party/parties invest capital in improvements and operate the business (partial business ownership model). However, the operating joint venture business may also be set up as a company with shared ownership.
- Alternative business ownership structures (Section 9, 7 models). Most of these models are not widely used, and primarily used overseas rather than New Zealand. There could be potential for some to be used here. Cooperatives are described in detail. These are similar to the whole business with shared ownership model, except only certain aspects of a business function may be shared and the philosophy behind cooperatives differs from a typical financial business model.

The 11 models described in detail are: sole trader, long-term lease, ground-lease, ground lease on Māori freehold land, vine rights, sharefarming, equity partnership, managed syndicate, joint venture, contracting, and cooperative. Table 1 (Section 4) summarises ten of the options.

The models are presented as 2- to 4-page, stand-alone descriptions to meet the research brief (hence no figure headings for diagrams). Information provided includes:

- a brief description;
- a hypothetical case study of how this model can be used, primarily from the perspective of the incoming generation;
- a diagram showing legal structures, parties involved and their asset ownership, agreements, and flows of capital and assets between parties;
- a table with factors for consideration by the various parties i.e. security of land control, equity, affordability, flexibility, communication, control and requirements, access to capital, risk and return, and other; and actual examples identified from literature and interviewees.

Bank lending is not shown in the diagram to keep it simple, but banks will have a vested interest in the businesses. All parties may have bank lending associated with the enterprise, either personally and as companies or trusts, and there will be mortgages to borrowers and interest and principal repayments.

Recommendations

Section 10 addresses the second stage of the research report: financial and industry initiatives to facilitate succession or remove barriers for horticultural succession were recommended. Key drivers leading to increased and more effective succession were cost reduction, availability of finance, increased opportunity awareness, more opportunities available, better knowledge of different models and assistance with the process.

3. Supporting Information

3.1 GLOSSARY

Business Structure: The legal structure that a business operates under. Common business structures in New Zealand include sole trader, ordinary partnership, limited partnership, company, trust.

*[2]**Easement:** An easement is an interest in real property that either limits or allows certain uses of the land. These include allowing access (e.g. lanes), crossing the property (e.g. a powerline corridor) or limiting certain uses to achieve a conservation purpose (e.g. restricting certain uses adjacent to a streambank).

***Entity:** An individual or legal party that holds rights (interests) in land or a land-based business. This could include an individual landowner, lessor, lessee or sharefarmer, trust, limited company or partnership, cooperative, public agency or non-profit organisation.

***Equity:** Equity typically means the sum value of owned assets. A person's equity is the value of the owned asset minus liabilities against it. Equity-building refers to the capacity to increase one's equity through various means.

***Fee simple ownership:** Fee simple (freehold) ownership entitles the property owner to full enjoyment of the property limited only by land and property law, local and regional council rules and regulations, covenants, or easements. The duration of ownership is not limited, and it can be passed along to heirs. Fee simple is the legal term for what we think of as full ownership, as represented by the owner's name on the title.

Incoming generation: The young person working in the industry who is succeeding to ownership of a horticultural business. This ownership could include land, and/or plant and machinery, and ownership can be full or partial. In the examples we use in this report, the incoming generation refers to the young person, who can be third-party or a family member, and who is already working in the horticultural industry. The alternative term, 'successor', is used to refer to the successor in a family situation.

***Investor:** Person or an entity that commits capital with the expectation of financial returns.

Lease: A contract arrangement in which rights of use and possession are conveyed from a property's title owner (called the landlord, or lessor) in return for a promise by another (called a tenant, or lessee) to pay rents as prescribed by the lease. In practice the rights and the duties of the parties can be complex and are dependent on the specified terms of their contract.

***Lessee:** A lessee (or tenant) is a person or group that rents and occupies land from another for a period of time. The tenant acquires use rights to the leased property.

Lessee's Interest (Leasehold Estate): The ownership interest that is created by the terms of a lease rather than the underlying rights of real estate ownership. The lease interest is subject to the terms of a specific lease arrangement, expires within a specified time, and may be capable of subdivision, or subleasing to other parties.

[2] * Definition adapted from: Land for Good, Farm Access Methods, a Decision Guide.

Lessor: A lessor is the person or entity that owns and leases (rents) property (e.g. land) and/or buildings to others. The landlord legally owns the property being leased. The interest held by the lessor is called the lessor's interest.

***License:** A license is permission to use—in this case, a horticultural property. A license does not convey any interests or rights in the property.

Limited Liability Company (LLC): An LLC has full responsibility for all of its legal and financial obligations. It is the liability of the shareholders that is limited. Shareholders are only liable for: money owing on their shares and personal guarantees they have given to lenders or creditors, such as banks or suppliers. Limited liability companies are incorporated under the Companies Act 1993. (Source: NZ Companies Office).

Limited Partnership (LP) also known as Limited Liability Partnership (LLP): LLPs are a form of partnership involving general partners who manage the company and are liable for all the debts and liabilities of the partnership, and limited partners who are liable to the extent of their capital contribution to the partnership. (NZ Companies Office).

Ordinary Partnership: These partnerships are defined by the Partnership Law Act 2019 as relationships between people conducting a business in common, with a view to profit. This is a simple, cost effective structure for two or more people to run a business together sharing the assets and liabilities. This relationship can be formalised through a partnership agreement. This is not a requirement but is advised. (Source: Red Meat Profit Partnership).

Partnership Agreement: Every limited partnership must have a partnership agreement. This is an agreement between partners that establishes a limited partnership and governs the terms and conditions of the partnership relationship. Before registration can take place, the general partner, or their agent, must certify that the proposed partners of the limited partnership have entered into a partnership agreement that complies with the Limited Partnership Act 2008. (Source: NZ Companies Office).

***Permit:** A permit, like a license, is permission to use - in this case, a horticultural property. A license does not convey any interests or rights in the property.

Profit-a-prendre: A profit-a-prendre gives an entity the specified right to take soil or a product of the soil such as minerals, produce (primary products, wood, turf, fish) or animal grazing on land owned by another entity. This right can be linked to adjoining land (appurtenant) or to an individual (gross).

Reversionary interest: Freehold title returns to the landowner on termination of the lease. This includes any improvements that have been made to the property. The lease agreement may specify some compensation for these improvements.

Shareholder's equity: An individual's financial interest in the company.

Sole trader: The simplest business structure suited to a person who goes into business and trades on their own. The business terminates on sale or death.

Trust: A trust is created when a person (called the settlor) transfers property to named people (trustees) to be held for the benefit of people chosen by the settlor (the beneficiaries). The settlor outlines how they want the property to be dealt with, and trustees have to follow those directions. Usually there are instructions around managing and protecting the property for the beneficiaries. Businesses are not normally run through a trust, but a trust can be part of a business structure. (Source: business.govt.nz)

Vendor: Seller

3.2 SOURCES OF CAPITAL FOR THE INCOMING GENERATION

The incoming generation will need both equity and debt capital to buy in to an existing business or start their own new business.

Equity: The successor / incoming generation contributes savings and possibly some equity in the form of assets (some relevant to the business, some which could be sold to raise capital, and some may generate income that can be used for the business).

Off-farm income: This could include the incoming manager or their partner having an off-farm job.

Gifting by the outgoing generation: This could occur on inheritance as one lump sum, or over time as a transfer strategy. Note there is no gift duty or inheritance tax in New Zealand.

Life Insurance: There can be different options. The successor can own a policy on the owners to eventually cover purchase from the estate. Alternatively, a policy is held by the owner to pay out non-succeeding siblings on their death. Or a policy could be linked to a family loan to a successor which gets paid out on the owner's death.

Debt: Sources of finance include the following.

- **Conventional mortgage through a commercial bank:** Banks will be willing to provide up to 50% debt, and up to 65% provided there is sufficient income to cover loan repayment over 15 years.
- **Vendor finance:** The vendor leaves some capital in the property as a loan. The purchaser and vendor arrange the finance terms privately rather than through a bank, and the purchaser pays off the purchase price of the property via instalments to the vendor. This could make up all, or a percentage of, debt funding.
- **Concessional loan to family member:** The outgoing generation lend part or all the purchase price to the incoming generation, often at below market interest rates and possibly interest free e.g. to a family member. Note there are tax implications if this is below market rate, and a promissory note is required. With low interest rates currently, the concessional rates may not differ greatly from commercial rates. This can be advantageous for both parties if a rate is struck between current lending and savings rates i.e. lower than bank lending rates for the incoming generation.
- **Investor finance**: This could be relevant where the incoming generation is investing in an equity partnership with external investors. This enables the incoming generation the opportunity to be part of a far larger business. The equity partnership company formed can also leverage the investment capital for company borrowing. The incoming generation could also work with an investor to develop businesses where they provide the labour and management, and the investor provides capital, with both benefiting from business growth and increased equity.
- **Crowdfunding such as peer to peer lending:** Crowdfunding is a type of financial market service covered by the Financial Markets Conducts Act 2013 that involves many people putting money in to support a project. This can be an alternative way of funding a start-up business but requires a common vision for support e.g. provision of local, organic produce.

3.3 LEGAL AND FINANCIAL INSTRUMENTS

Legislation relevant to this report

Companies Act 1993. Covers registration of companies, rules for directors and officers, shareholders or members, disclosure and reporting requirements, restructuring rules, insolvency rules, investigation and enforcement of the law, the removal of companies from the register.

Financial Markets Conducts Act 2013. Promotes the confident and informed participation of businesses, investors, and consumers in the financial markets; and promotes and facilitates the development of fair, efficient, and transparent financial markets.

Forestry Rights Registration Act 1983. Provides for the creation of a forestry right.

Land Transfer Act 2017. Land title system.

Limited Partnerships Act 2008. Establishes a regulatory regime for limited partnerships.

Partnership Law Act 2019. Covers nature of partnership, relationship of partners to third persons and to each other, financial reporting, dissolution of partnership.

Property Law Act 2007. Law relating to real and personal property. Covers dispositions, instruments, transactions and property, mortgages, leases of land, covenants, easements, profits and access lots, special powers of the court.

Resource Management Act 1991. Promotes the sustainable management of natural and physical resources.

Te Ture Whenua Māori Act 1993. Facilitates and promotes the retention, use, development, and control of Maori land as taonga tuku iho by Māori owners, their whānau, their hapū, and their descendants, and protects wāhi tapu.

Trusts Act 2019. Covers investment, general powers and indemnities of trustees, appointment and discharge of trustees and powers of the court.

Agreements relevant to this report

Cooperative Bylaws. A legal document that sets out the rules and regulations for business operation, governance, and decision making of the cooperative.

Cooperative Collective Agreement. A legal document between members of the cooperative. This will include; ownership, governance, rights and responsibilities, distribution of profits and losses, entry and exit.

Joint Venture Agreement. Sharefarming or contracting agreement.

Lease Agreement. Legal document between lessor and lessee, which sets out terms of the lease. This could include; term, area, rental, rent review, permitted use, insurance, maintenance obligations, fertiliser, cropping, assignment, improvements, resource consents, dispute resolution.

Licence Agreement. Legal document between the property owner and the licence holder which covers the rights of the holder to enter the land and use it for a stated purpose.

Orchard Services Agreement or similar for contractors. Legal document between the grower and contractor that sets out the terms of the agreement. This could include; length of agreement, services to be provided, special directions for performing services, payment, cancellation, contractor's obligations, health and safety, biosecurity, orchardist's obligations, insurance, dispute resolution.

Sharefarming Agreement. Legal document between the landowner and the sharefarmer which sets out the terms of the sharefarming agreement. This could include: timeframe, responsibilities, management policy, maintenance, apportionment of income and costs, dispute resolution, details of assets of the parties, special conditions, dispute resolution process. Known as 'sharefarming'. These are rarely used in horticulture.

4. Summary of the Key Options for the Incoming Generation

The assessments (e.g. high, medium, low) for each of the financial arrangements (e.g. ground lease, sharefarming) have been assessed subjectively by the authors relative to each other for each variable (Table 1). Timeframe and cost variables will differ depending on industry sector, although relative comparability across any given sector will be similar.

Table 1: Performance and attributes of some business and financial arrangements considered across a range of variables.

	Sole owner / Partnership	**Short-term lease**	**Long-term lease**	**Ground lease**	**Vine rights[2]**	**Sharefarming**	**Equity partnership[3]**	**Managed syndicate**	**Contracting**	**Cooperative[4]**
Entry cost	High	Low	Low	High	Varies	Low	Medium	Medium	Low	Varies
Security of tenure	High	Low	Medium	High	Varies	Low	Medium	Medium	N/A	Medium
Control over land use	High	Medium	Medium	High	Low	Low/medium	Medium	Low/medium	N/A	Medium
Control over business decisions	High	High	High	High	High	Medium	Low	Low	High	Low
Ability to borrow[5]	High	Low	Low	Medium	Low	Low	Low	Low	Low	Low
Asset ownership[6]	LBMP	M	M	BMP	MP	M	Part LBMP	Part LBMP	M	Varies

[2] Vine rights values vary according to proportion of vineyard for which rights are held and the term of the right.

[3] Some equity partnership aspects will differ between family succession with equity partnership structures, and equity partnerships with investors. Values reflect the latter.

[4] Cooperative values vary depending on type of cooperative (workers, machinery etc), and ownership and business structure.

[5] "Ability to borrow" is dependent on having land for collateral.

[6] "Asset ownership" values are: L Land, B buildings, M Machinery, P plantings (vines, trees).

Can build equity in property assets	Yes	No	No	Yes	Yes	No	Yes	Yes	No	Varies

	Sole owner / Partnership	**Short-term lease**	**Long-term lease**	**Ground lease**	**Vine rights**[7]	**Sharefarming**	**Equity partnership**[8]	**Managed syndicate**	**Contracting**	**Cooperative**[9]
Experience required	High	Low/medium	Medium	High	Medium	Medium	Medium	Medium	Low/medium	Mix
Career progression	Late	Early	Mid	Late	Mid	Mid	Late	Mid	Early	Any
Employment status	Self	Self	Self	Self	Self	Self	Employee	Employee	Self	Self, possibly employee
Cooperation required[10]	Low	Low	Low	Low	Medium	Medium	High	High	High	High
Length of commitment[11]	Long	Short	Short/medium	Medium/long	Medium/long	Short/medium	Long	Medium	To suit	Medium/long

[7] Vine rights values vary according to proportion of vineyard for which rights are held and the term of the right.

[8] Some equity partnership aspects will differ between family succession with equity partnership structures, and equity partnerships with investors. Values reflect the latter.

[9] Cooperative values vary depending on type of cooperative (workers, machinery etc), and ownership and business structure.

[10] "Cooperation required" assesses the requirement to get on with others e.g. co-investors, employers, employees, family, clients.

[11] "Length of commitment" indicative timeframes are: Short 1-3 years, Medium 5-15 years, Long 20+ years.

5. Sole Ownership: Sole Trader and Ordinary Partnership

Description: Sole ownership can take multiple forms. In this example two are considered: Full sale of land business and partial sale of the land. With **full sale** of land business ownership, the horticulture business is transferred directly from the seller to the buyer at one time. This transaction is most likely to involve borrowed capital. In a family situation, this could include a family loan as well as a bank loan and could also include gifting and ultimately inheritance (via a Will with reference to a Memorandum of Understanding).

A more affordable option could be a **partial sale** of a part of the land e.g. sale of a separate title when the property is in multiple titles. This may be a starting point for a successor to transfer the business with the remainder of the land leased.

Sole ownership can occur through a sole trader or an ordinary partnership. In an ordinary partnership, more than one person owns the land. This is common in many family-owned business situations where a couple own a property or business. No division of income and expenses is needed. Tax and liabilities are similar for a sole owner and an ordinary partnership: the owners share profits and are responsible for their share of the tax and liabilities as individuals (split for a couple).

Hypothetical case study for sole ownership by an ordinary partnership over time: Mia and Sam have been working as a rural banker and a consultant, respectively, since graduating with degrees in agribusiness and horticultural science ten years ago. They own their own home, have just finished paying off their mortgage and are ready to realise their long-term goal of owning and operating their own horticultural business. Sam's parents own a 20 hectare avocado orchard in Whangarei and are ready to sell the orchard and shift into town. They would like Sam and Mia to carry on the business and are keen to help them purchase the orchard but want to ensure that they treat their three children fairly. The orchard is in two titles, one 5 hectare title with a house and a 15 hectare title. The orchard has recently been valued at $4,000,000. Mia and Sam do not have enough equity to purchase the orchard outright with a commercial loan, but they can raise $1,000,000 from the sale of their house and bank lending (50% equity). This will enable them to purchase the 5 hectare title, plant and machinery and household chattels. They will lease the 15 hectare title on a long-term lease with an option to purchase. This arrangement gives Sam and Mia full control of the orchard and Sam's parents have a lump sum to purchase a house in town and a fair market income stream from the orchard lease. When the 15 hectares is sold, possibly to Sam and Mia, Sam's parents will have capital that they can use to benefit all three of their children ultimately. Alternatively, they may retain the 15ha and this will be settled in their wills. Sam's one third share, with what they already own, should enable Sam and Mia to get a mortgage to pay out his siblings and own the whole block.

	Considerations
Incoming generation	Most suited to incoming generation (family or third party) with considerable experience and substantial capital, who can confidently service the level of term lending required.

Security of land control	Offers high security to the successor as landowner, depending on extent and terms of finance to purchase the property. The landowner holds all interests as 'fee simple' title which provides maximum security for the successor. Legal entity ceases on owner's death if the legal entity is an individual (e.g. sole owner) or remains with other partners in an ordinary partnership.
Equity	The incoming generation need to meet bank's lending criteria for initial equity (around 50% equity required) and build equity as principal is repaid.
Affordability	A substantial sum is needed to purchase a viable business. The vendor can leave finance in which is repaid over an agreed period, with capital as an annuity and/or lump sum(s). Repayments are often made over an extended period e.g. 20 years or on death of the owner. Vendor finance as a family loan is common in family succession.
Flexibility	Maximum freedom and flexibility regarding horticultural activities and land use provided it is legally permitted (i.e. complies with local planning laws and the Resource Management Act 1991).
Control and requirements	The purchasing landowner has full control of the business. They will need to own or purchase all plant and machinery to operate the business.
Access to capital	Owning the freehold title enables the landowner to use full property value as collateral for a loan. They also need to negotiate an overdraft facility with the bank.
Risk and return	The landowner has full risk and full return. The landowner will need to ensure they have a supply contract for some crop types.

Example

Phil Greer, Willowford Alma Alta Orchard, Hawkes Bay: "Phil Greer studied horticulture at University and worked on orchards. This led him to buy his first piece of land in Taradale when he was 24 years old. He planted 10 acres of apples by hand. This was later sold to fund the purchase of Willowford Alma Alta, which he had previously managed for the former owners. When he and Kirsty met by the side of a rugby field it was a match (excuse the pun) made in heaven as she had come from a farming and orcharding family. Together they continue to build Willowford Alma Alta with more land still available for planting - they plan to plant 10 acres of Envy, 5000 trees, over the next couple of years. The orchard currently produces 100,000 cartons of fruit annually at 18 kilograms per carton." https://www.willowford.co.nz/about.html

6. Partial Business Ownership

Interests in a business enterprise are held by different entities i.e. separate ownership of assets and income streams.

6.1 LEASING

Leasing is a contractual agreement between a lessor (landowner) and the incoming generation as the lessee (tenant) for a fixed period. The period may range from short term (e.g. 1-3 years) to long term (e.g. 5 years or longer) and could relate to the land and improvements (e.g. long-term lease of existing orchard), or the land only (ground lease), where the incoming generation, as lessee, has the right to set up a horticultural enterprise on bare land. There is a lease agreement which covers important factors related to the lease including: rental and rent review, timeframes, land use, responsibility for maintenance, capital improvements, fertiliser inputs. Lease agreements are well understood and widely used in New Zealand.

It is most likely that the parties to a lease of longer than three years will look to create a leasehold estate. This grants the lessee the legal right of exclusive possession and creates an interest in land that can be used as security for a loan. Thus, when the landowner wishes to occupy part of the land being leased (e.g. house and surrounds), the property may need to be subdivided and separate legal titles established. This can be expensive and it is important that both parties seek advice from a lawyer with expertise in this field.

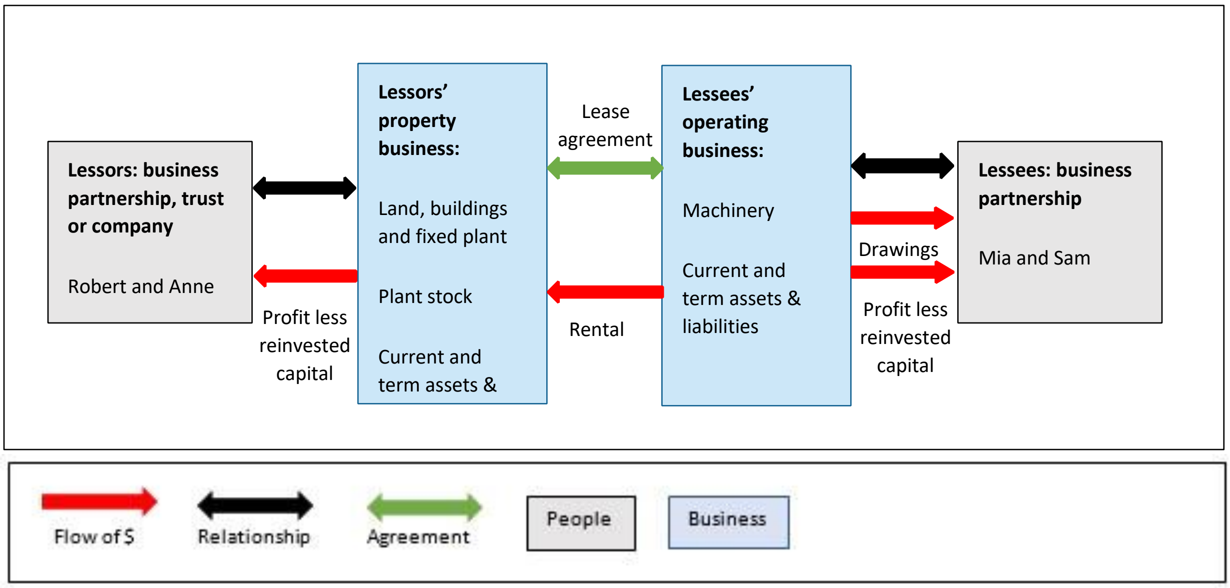
6.1.1 SHORT-TERM LEASE

The incoming generation can lease land (usually bare land) for one to three years e.g. three crop rotations. This option can introduce a young person in the incoming generation to production risk and business management to build management capability. To get started in the industry with their own business, a young person could have a number of small short-term leases (e.g. growing crops) as well as other enterprises e.g. other work in the industry, contracting. It can also be useful to have a short-term agreement prior to signing up a long-term agreement to ensure compatibility. These are also common where a crop needs new ground e.g. potatoes. The landowner benefits from a guaranteed income, retention of ownership, and no management requirement which is useful for those retiring or with other employment.

6.1.2 LONG-TERM LEASE

Description: The lessor (landowner) leases an operating horticultural business to the lessee (incoming generation) for a fixed period (e.g. 6 years with right of renewal) at current market rental with specified rent review periods. The lease agreement gives the lessee access to land, buildings and fixed assets, which may include trees or vines, in order to undertake a horticultural enterprise for the specified period. The division of expenses are set out in the lease agreement. The lessor usually pays for capital improvements, and may pay for rates, insurance on structures and public liability, and receives the rental income: conditions depend on the lease agreement. The lessee usually provides labour and machinery, pays for all operating expenses and receives all business income.

Hypothetical case study for a long-term lease: Mia has worked as a vineyard manager for five years and her partner, Sam, works as a consultant. They have the confidence and experience to manage a vineyard on their own account and have successfully tendered for the lease of Robert and Anne's 20 hectare vineyard. Their lease is for a period of 6 years with a right of renewal, with rental reviewed every second year. Rental is based on current market rates as assessed by an independent valuer and is paid monthly. The vineyard is a fully developed productive unit with a long-term supply contract in place that can be transferred to Mia and Sam. They have some savings and with a small bank loan they purchase the machinery needed to run the business. They have also arranged seasonal finance. They give up their current jobs to work full time on the vineyard. After 5 years they have built up enough equity to purchase a small block of bare land that they will plant and manage alongside the lease block. They plan to continue to lease the block off Robert and Anne for many years since this helps provide them with the size and scale they need to grow their business and an income stream while they develop their own vineyard.



	Considerations
Incoming generation (lessees)	Suited to lessees with some experience who would like to be self-employed and aspire to build equity but do not have the capital to invest in or develop land. Provides an opportunity for lessees to further develop skills e.g. financial and management skills. The lessee can build equity over time through returns generated by effective business operation.
Landowners (lessors)	The lessor has the advantages of fixed income stream, capital gain on land, minimal responsibility for labour, and if title is separated, retained use of some buildings (dwelling, workshop) and land. Suited to landowners who want to retain land ownership, but step back from management and/or give the incoming generation an opportunity to manage the horticultural property. A lessor can also have a lease agreement with a third party as a way of holding land in the family until a family successor is ready to take over.
Security of land control	The length and terms of the lease will determine security. The lease could be registered, or a caveat lodged, against the title to protect the lessee's interest in the property. This creates a leasehold estate. Subdivision may be required to separate occupancy.
Equity	The lessee does not build equity in the land and owns depreciating assets. They can build equity and benefit from increased productivity through their management expertise. A lease agreement may stipulate compensation for improvements. The lessor may benefit from capital gain.
Affordability	A long-term lease is more affordable than land purchase, while providing many of the same advantages. Rental payments are spread over the term of the lease.
Flexibility	Level of flexibility depends on the terms of the lease. A long-term lease offers lessee's flexibility regarding decisions and plans. Transferring or terminating the lease is possible.

Communication	Lease agreement sets the terms and conditions of the lease and covers rental and rent review, time frame, land use, responsibility for maintenance, capital improvements, fertiliser inputs. There is limited interaction between the parties. Both parties need alignment of goals and values.
Control and requirements	The lease agreement conditions may restrict business operation. Allows a lessee full control of the management in a family business reducing potential conflict within the family, compared to managing or sharefarming, and enabling them to further develop management skills.
Access to capital	Options to borrow capital will be limited (no land to mortgage). The young person will need some initial capital and may be able to borrow to purchase machinery. A leasehold estate can provide security for a loan.
Risk and return	The lessor has a guaranteed income stream and low-income risk. The lessee is rewarded for risk from a higher average income with a fixed rental. The lessee can benefit from investments in the property which are realised during the term of the lease. Lessees will need to ensure they have a supply contract for some crop types.
Other	Parties will need to carefully consider how to deal with shares (e.g. packhouse) and licences (kiwifruit). The lease must be clear in terms of environmental obligations and water consents.

Examples

Dane Sommerville, cropping farmer, Australia: The Sommerville's family farm was supporting four generations. Dan and his wife looked for an alternative business opportunity to increase his returns to a level where he could buy out his siblings. They decided to lease a 1052 hectare farm as a stand-alone business. They were unable to secure bank finance but found a private backer and went into business on the leased land with the financial backer and another farming couple. The financial backer contributed the start-up capital, some machinery was purchased with long-term finance and other equipment was leased. The lease cost was split three ways and the profits were divided with the operating partners receiving slightly more than the financial partner. They continued to lease the farm for seven years in the partnership before buying out their partners. They now run the lease block with the family farm.

Source: https://grdc.com.au/resources-and-publications/groundcover/ground-cover-issue-108-jan-feb2014/novel-approach-to-farm-succession-challenge

Dominik Dax, Austria: Dominik does not come from a farm and started a vegetable production business on leased land. He was able to lease a small parcel of land (0.5 hectares) from friends and set up plastic tunnels for vegetable production. Existing infrastructure on the farm was used for washing and cooling. Products were sold through a consumer cooperative, farmers market and to a local restaurant.

Source: http://www.forum-synergies.eu/docs/farm-succesion-brochure.pdf page 23

Vineyard leasing New Zealand: Vineyard leasing to wine companies is an option for owners who want to step out of day to day vineyard management. One grower describes a five-year lease with right of renewal for a further five years. The arrangement has allowed him to continue to live on the vineyard and he receives known rental income that equates to around 7% rate of return on his land value.

Source: https://www.nzherald.co.nz/the-country/news/article.cfm?c_id=16&objectid=11948498

Other: Kiwifruit packhouse companies dominate the lease of kiwifruit orchards. Some leases are on a small set payment for the lease ($15,000/ha) with a 50/50 share of income (Horticulture Manager, personal communication, 29/04/2020).

6.1.3 GROUND LEASE

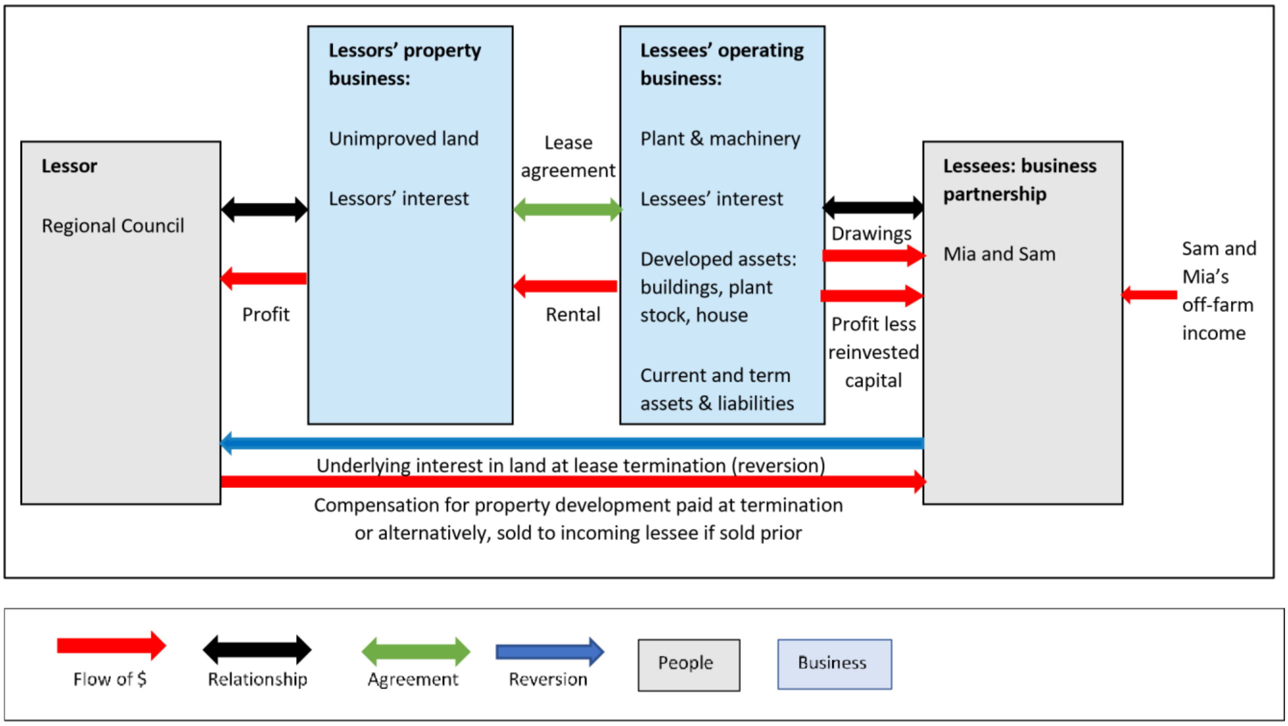
Description: The lessor (landowner) leases bare land to a lessee (incoming generation) for a long term (e.g. 21 years with rights of renewal and rent reviews every 7 years). The lessee develops the horticultural business on the bare land (provides plant and machinery, constructs buildings and infrastructure, plants trees or vines, and purchase licences if required).

The freehold title is split into two separate and saleable interests, the lessor's and lessee's interests. The value of the lessor's interest is related to the rental income stream and the underlying interest in the land (reversionary interest). The lessor receives rental payment, and possibly profit share after a time, as specified in the lease agreement, and has capital gain/loss in the bare land value. Once the lease terminates the lessor benefits from the value of the improvements. The value of the lessee's interest is related to the difference between rental rate at last rent review and current market rental, and any compensation for improvements to be received at termination of the lease as specified in the lease agreement. If stated in the lease agreement, the lessee can sell their interest to an incoming lessee if the lease has not reached termination.

A lease agreement for a ground lease sets out terms and conditions, obligations and restrictions, reversionary interest, the process for determining value of the two interests, rent review periods and the process to determine ground rental review. Lessor and lessee generally need expert advice for rent review and lease renewal. The lessor may offer the lessee the opportunity to purchase the freehold interest.

Hypothetical case study for a ground lease: Mia has been managing an apple orchard for several years. Her partner, Sam, works off-farm as a consultant. They have saved up a large sum of money and have received financial approval for term and seasonal lending but do not yet have sufficient capital to purchase land or an established orchard. They have successfully tendered for a Regional Council lease. This is for a 21year renewable lease of a 10 ha block of bare land with water access. They own some machinery, build an implement shed / workshop and plant the land in three different pipfruit varieties. Sam continues to work off-farm and Mia works full time on the orchard and does some casual work for local growers until the orchard starts producing well. Their orchard will start producing in year one and reach full production by year 6. While Mia and Sam have invested heavily in development, the advantage is their lease payment is initially based on bare land value. By the time their block is in full production, they have built up considerable value (equity) in their lessee's interest (interest in the property related to the capital development) and will have added a small dwelling to the property. The regional council, as the lessor, has continued to receive a regular lease income based on the bare land value for the initial lease period, has the capital gain/loss in the bare land value, benefits from the reversionary interest at termination and know their land is well maintained.

By year 15, Mia and Sam have accumulated enough capital to consider purchasing a freehold property. Capital will be raised from savings, a bank loan and selling their lessees' interest. Alternatively, they may keep the lease block and use this as collateral for a larger bank loan, as well as continuing to benefit from income on the lease block. The income from the lease block is an advantage if they purchase bare land to develop.



	Considerations
Incoming generation (lessees)	Suited to lessees with considerable experience and substantial capital who are aspiring to take the next step in building equity without having to purchase a freehold property which may not yet be affordable.
Landowners (lessors)	Suited to landowners with undeveloped land holdings, often Public Bodies and Iwi, but also private investors who want to retain land ownership. Leasing could also be an option in family situations where there is undeveloped land suitable for a new horticultural business.
Security of land control	The length and terms of the lease will determine security. 21-year terms with right of renewal are common which is long enough to develop and make good returns from a business. A 99-year lease offers very high security.

Equity	Lessees build equity in the plant and machinery, buildings, trees and other improvements (note these are depreciating assets) as well as savings and investments from business returns. Lessees may be compensated for the residual value of improvements as specified in the lease agreement. The lessor will benefit from lease income with regular rent review, retained ownership and any unimproved land capital gain. On lease termination they may need to compensate the lessee for improvements and will then have an up and running business to lease to another party (long term lease) or could revert the land back to bare land.
Affordability	A ground lease is more affordable for a lessee than land purchase while providing many of the same advantages e.g. full control. A ground lease is based on unimproved land value making lease payments more affordable than a long-term lease. Rental outflow is spread over the term of the lease.
Flexibility	Flexibility will depend on the terms of the ground lease. A ground lease generally offers lessees flexibility regarding business decisions, plans and transfer.
Communication	The lease agreement sets the terms and conditions of the lease. Both parties need alignment of goals and values in negotiating these. There is limited interaction between the parties over the lease term.
Control and requirements	The lease agreement may restrict business operation. Land is productively managed by the lessee without the owner having any direct management input.
Access to capital	Lessee options to borrow capital may be limited (no land to mortgage). They will need some initial capital and may be able to secure a loan with the security of the lessee's interest.
Risk and return	Lessees assume the greater risk and a higher return with a fixed rental. Lessees may be compensated for some development value at termination or can sell their lessee's interest sooner. The landowner benefits from a fixed rental income stream and the lessee's development at termination. Lessees will need to ensure they have a supply contract for some crop types.

Examples

Ground lease of land for viticulture development: Lawyer, Peter Radich describes how ground lease and large-scale development was popular with wine companies in 2017. The company developed the bare land; planted vines, installed support structures, irrigation and wind machines (if needed). Typically rent was based on 7-7.5% of the land value with five-year rent review. This arrangement was attractive for land owners wanting to retain land ownership and provide income for their children.

Source: https://www.ruralnewsgroup.co.nz/wine-grower/wg-general-news/companies-look-to-lease-ratherthan-buy

Other: Ground leases are seen in the kiwifruit sector, often for a 15 to 20-year term, with a rental calculated on a base payment plus profit share and land returned to landowner at a termination (Horticulture Manager, personal communication 29/04/2020). The reversionary interest calculation is specified in the agreement. In family succession, the lease term may be until death and the family may utilise a trust for land ownership (Horticultural Consultant, personal communication, 23/04/2020)

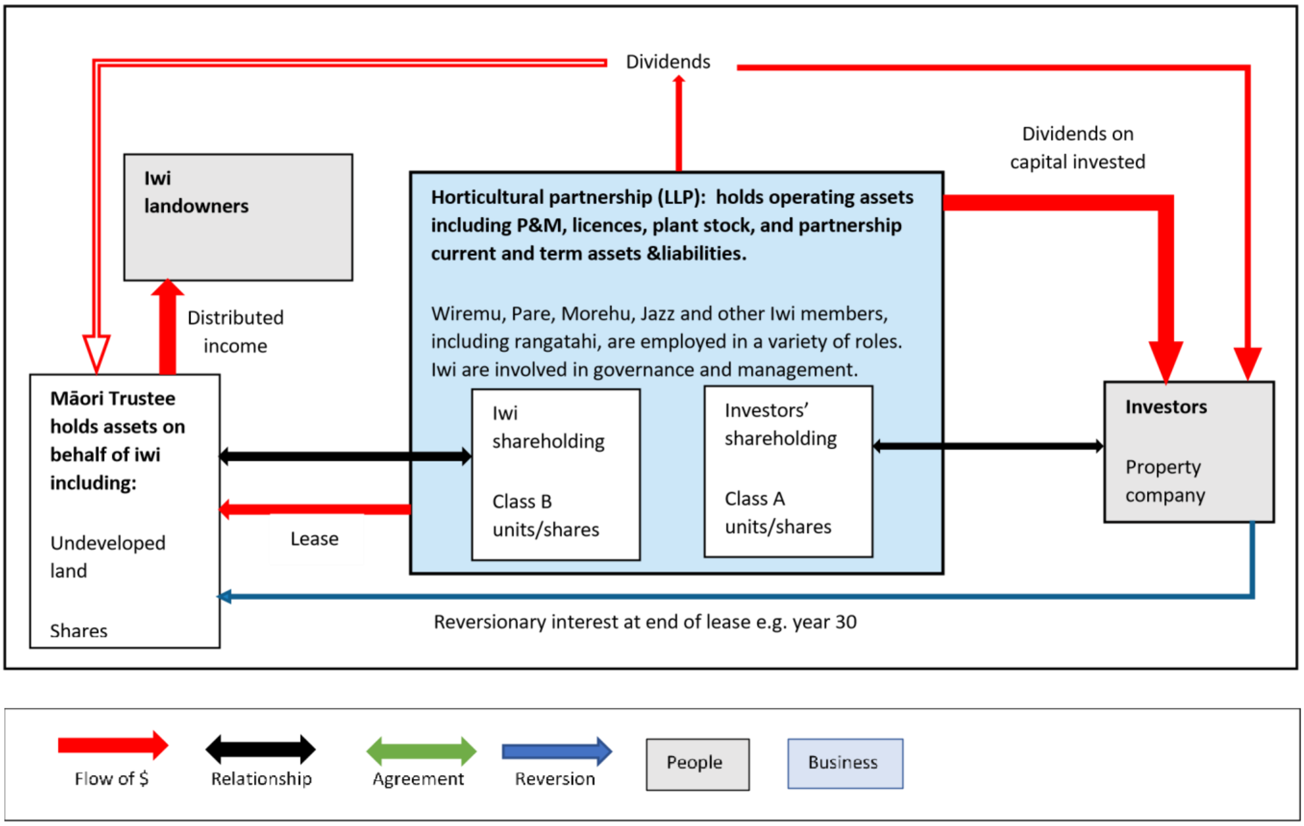
6.1.4 GROUND LEASE ON MĀORI FREEHOLD LAND

Description: The Māori Trustee holds and manages assets on behalf of Māori landowners who own land in common, including undeveloped land suited to horticulture. Access to capital for development can be problematic, with banks reluctant to lend on Māori land, due to the common ownership of title, and the fact Māori freehold land is seldom sold. Investors, or investment companies, with substantial capital can develop horticultural units on the land with the Māori Trustee in a joint venture (LLP or LLC to develop and manage the development) with a relatively long term ground lease on the land. A governance structure for the joint venture represents all parties' interests. During the lease period, investors make sufficient return to recoup, and receive a market return, on their investment. Māori landowners benefit from eventual full ownership of the horticultural development and job opportunities for young iwi members (incoming generation, future and current owners of Māori land).

Hypothetical case study for ground lease on Māori freehold land: An iwi group has undeveloped land suitable for orchard development but limited capital to invest. The Māori Trustee, which holds the Māori freehold land, has been approached by a property investment company interested in investing in horticultural development and have been discussing the potential to do so with company for some time, during which they have established a trusted relationship. They have similar goals: while the company primarily wants a commercial return, they are very supportive of iwi goals: local employment for their rangatahi while building their management and governance skills so they can eventually be responsible for the horticultural business at all levels, sustainable management, community benefits, and long-term, horticultural returns to benefit all iwi members.

Working through the Māori Trustee, the Iwi form a Joint Venture (LLP) with the property investment company who provide most of the capital to develop the land (a number of orchards are planned). Iwi land is leased to the LLP for 30 years. The LLP investment company develops the land (vines/trees, buildings, fixed plant, other improvements), purchases licences required, provides plant and machinery and manages staff. A very experienced manager is employed for the horticultural LLP to develop and manage the orchards. Wiremu, Pare, Morehu and Jazz, who have some horticultural experience and belong to the iwi, are employed in positions of responsibility reporting to him with the expectation that they will manage orchards once these are developed. Wiremu is also shadowing his Koro at some governance meetings. He was managing an orchard in another region and was keen to return home to work on his family land for the benefit of his iwi and hapū, as well as the career opportunities available in orchard management and governance. His partner, Sara, also thinks it offers future opportunities for them and the children to go back and be near family. The other three are similarly pleased to be able to return home. As orchards are developed, preference is given to iwi members in employment decisions, with some jobs and training provided at base level being made available only to iwi rangatahi to develop skills in horticulture.

Two classes of shares/units in the LLP allow for priority repayment of capital development costs to the investment company. Initial dividends are paid to them to cover capital expenditure, then once a predetermined IRR has been achieved, profits are shared with iwi. At termination of the lease (30 years), iwi will assume full ownership and management of the properties. It is hoped that by then, the likes of Wiremu, Pare, Morehu and Jazz will have senior roles in governance and management of the properties, and some of the rangatahi employed early on will then be in orchard management roles.



	Considerations
Iwi landowners (managed by Māori Trustee on their behalf)	The development of the land provides long-term benefits to the landowners and local communities (local iwi). Developing landowner (iwi) capability so they can ultimately govern, manage and operate the business once it is returned is a key objective. The incoming iwi generation will benefit from opportunities to learn, and eventually govern, manage and work on their own land-based businesses. Economic returns from the business will benefit future generations
Investors e.g. large property investment company	The investors benefit from attaining a targeted commercial rate of return. Benefits to local communities may also benefit the investor if they are local. They have access to long-term leases with high security (Māori land will not be sold).
Security of land control	Iwi landowners are highly unlikely to ever sell the land and have also co-invested in the development company for long-term benefit. Hence lease security is high and long term until the lease terminates.
Equity	Equity is built through the development of the land by the LLC or LLP joint venture, increasing land and share values over time. There may also be capital gain on land although this is highly unlikely to be realised i.e. through sale.
Affordability	A partnership (LLP or LLC) between iwi and a property development company who provides development capital enables iwi to develop their land to benefit of both parties. Otherwise this is unlikely to be achievable. Some iwi may have settlement funds to co-invest.

Flexibility	Long term commitment and an expectation of increasing ownership by iwi enables long term decisions and plans. Shared expertise and capital enable investment, opportunities, and ideas for increased productivity. Decision making is likely to be structured through formal governance and management.
Communication	Co-investment with Māori usually requires established, trusted relationships and good communication. The joint venture LLC or LLP will have structured governance and business plans and lease agreements. Formal and informal communication processes will be in place. There will be clear role definition, including job descriptions and expectations for the horticultural LLP employees.
Control and requirements	The Board will stipulate business strategy and monitor business performance, with management answerable to the Board and responsible for implementing strategy.
Access to capital	Capital is provided largely by the investment company. As properties are developed returns can be reinvested into the business for further development.
Risk and return	The horticultural LLP or LLC which develops and operates the horticultural business carries the financial risk. Returns are distributed to the owners, primarily the investors initially until they recoup their investment then shared with Iwi. Lessees will need to ensure they have a supply contract for some crop types.
Other	The goals and values of both parties need to be strongly aligned e.g. intent for the next generation to eventually take over the horticultural business at all levels, caring for environment, community benefits, commercial returns.

Example

Huakiwi: A unique business model has been developed to enable kiwifruit orchard development on unimproved Māori land in the Bay of Plenty. Ownership of the land is retained by the Māori landowners and the land is leased to a development company who will develop the orchards. The profits will be retained by the development company until such time as the targeted return on investment is reached. This is expected to take between twelve and seventeen years. Once the targeted return is reached orchard ownership will be transferred to the Māori landowners. This model enables the landowners to develop orchards on their land without the need to raise capital. Part of the development programme includes building the capability of the landowners to manage the orchards.

Source: https://quaysideholdings.co.nz/casestudy/30-million-kiwifruit-investment-for-maori/

6.1.5 ALTERNATIVE LEASE ARRANGEMENTS

Lease with variable lease rate

This is a lease agreement with rental payments that vary based on a share of profits or income (risk sharing). Rental could be a base rate plus a top-up payment when returns for the season are finalised. Alternatively, rental could be an agreed percentage of profit. In this respect, this is very similar to sharefarming (refer Section 6.3) without sharing costs. This will reduce the rental cost to the lessee in a poor year and decrease the benefit of higher returns in a good year. This can be applied to the long-term lease.

Lease to own

A lease to own agreement may have an option to purchase or a first right of refusal to purchase at a future date. This option could be for all or a part of the land. Lease to own could help enable family succession allowing the successor to purchase when they can afford to do so, while giving them secure tenure until the time they can act on the option to purchase the freehold title. An option can be set up to include a portion of rental payments as equity payment, with details in the lease agreement of how this is valued if the lease terminates without exercising the right to purchase. Lease to own can be applied to the long-term lease and the ground lease options. With a ground lease, the lessee could have an option to purchase the lessors' interest.

Sale and lease back

Land can be sold to the successor working on the horticultural unit, possibly with a family loan for purchase. The successor makes repayments on the loan. The landowners lease back the property. This arrangement ensures any capital gain goes to successor on the property who will ultimately take over the property (example provided by Rural Banker,).

Leibrente (life annuity) contract

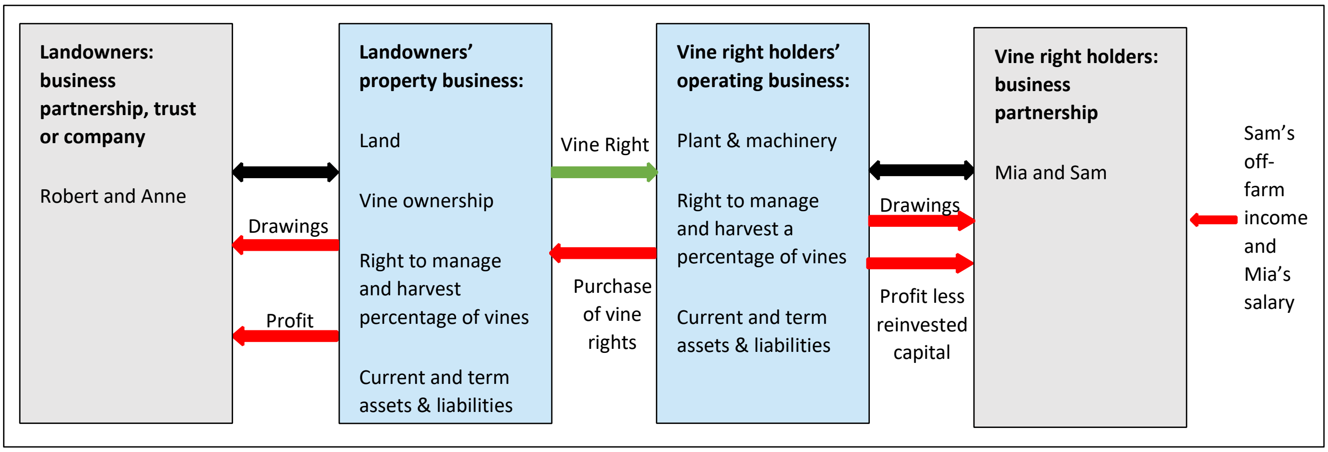
This is used in Austria for non-familial succession and farming examples were provided (M Bertholler et al, 2016). The person(s) in the incoming generation lives with the owner and farms the property, paying a monthly fee to the owner to amortise the farm value. The amount paid can be reduced by providing a duty of care to the owner. Initially there is joint farm management and then the owner gradually steps back from running the farm.

6.2 VINE RIGHTS (PROFIT-A-PRENDRE)

Description: A vine right is not a legally recognised term. This example is based on forestry rights and profit-a-prendre examples used in viticulture. Legislation could be passed to establish vine rights, similar to the Forestry Rights, which could be applicable to permanent plantations that bear fruit or nuts i.e. grapes, kiwifruit, apples etc. As with the Forestry Rights Registration Act 1983 (FRRA), this would create a saleable vine right that is registered on the landowner's title. Vines included in the right would be indicated with reference to a diagram or aerial photograph. The creation of the right would not be deemed to be a subdivision of the land. The vine right is a profit-a-prendre, registered on the freehold title as a long-term interest at minimal cost (inexpensive to register).

The landowner has either bare land, or a developed orchard, and offers a profit-a-prendre (vine right) for sale. The vine right holder (incoming generation) purchases the vine right which gives them the right to grow and/or harvest a specified crop on land owned by the landowner. The vine right will only pertain to the plantings. The holder will receive the net income from the vines specified. There is no need to create a separate property interest or undertake a survey plan. This could be for a long-term period, up to 999 years at which point the value of the profit-a-prendre is close to property value.

Hypothetical case study for a vine right: Mia is the vineyard manager on Robert and Anne's 20 hectare vineyard and her partner, Sam, works off-farm as a consultant. Robert and Anne are nearing retirement age and are looking to step back from day to day vineyard management over the next decade. They have recently built a valuable home on the vineyard and intend to live there for many years. They know that Mia has excellent management skills and they are keen to keep her as a manager while providing her with a pathway to vineyard ownership. Mia and Sam have saved up a sum of money and can afford the lump sum payment to purchase the rights to 0.2 hectares of vines for 999 years. The right will give them all the net income from that small portion of the vineyard, and an opportunity to develop business management skills. Over the next two years they continue to save and purchase the rights for a small area of vines each season. By their fourth year they have the financial background to approach the bank for term lending to borrow and increase their vine rights to 2 hectares. Mia is now spending ten percent of her time tending to her own vines and her management salary is decreased to reflect this change. Their total income increases with the increased vine ownership, and with Sam's income as well, they can pay off the loan over a ten-year term. Over time, they have the option to continue to increase their vine rights and can aim to own the rights to the full planted area. Alternatively, they can eventually sell their vine rights and invest in a freehold vineyard.



	Considerations
Incoming generation (vine right holders)	Suited to someone with management experience and some capital who is aspiring to take the next step in building equity without having to purchase a freehold property which will not yet be affordable.
Landowners	Suited to landowners who want to retain ownership of the land but remove themselves from vineyard/orchard operations. Could be a useful option to separate land and house and remain on the property without the need for subdivision into separate titles (as may be required for a lease). This could also be used in family succession to transfer the right to farm over time, with land assets (minimal or reduced value with the profit-a-prendre) transferred to the incoming generation in time.

Security of land control	The length and terms of the vine right will determine security. A 999-year right offers very high security. Parties need to ensure they are aware of what is included in profit-a-prendre e.g. water rights, shelter, resource consents, buildings attached to the land may not be available to the vine right holder.
Equity	The vine right holder has equity that relates to the term of the right and builds equity in new plantings on previously undeveloped land. The landowner receives capital from the sale of vine rights and retains the land freehold title, encumbered by the vine right.
Affordability	A vine right is more affordable than land purchase, while providing many of the same advantages. Depending on time frame, per ha cost may be close to total property value per hectare. However, transfer can easily be staged.
Flexibility	Flexibility will depend on the terms of the right. A right generally offers flexibility regarding decisions, plans and transfer.
Communication	The vine right sets the terms and conditions of land use. Interaction will depend on the percentage of the vine right owned. Where the vine right covers all vines there is limited interaction between the parties. If purchase of the vine rights is staged, good communication between the parties is essential. Relationships between the right holder and landowner can change if or when these change hands: parties are unlikely to have control over who the other party is.
Control and requirements	The vine right may restrict business operation. Land is productively managed without the landowner having to provide direct management. The landowner will have to accept more conditions and greater presence of the vine right holder and their management activities than would occur with a forestry right.
Access to capital	Options to borrow capital may be limited because there is no land ownership for security. The incoming generation will need some initial capital and may be able to borrow with the security of the vine right, particularly for a longer period.
Risk and return	The incoming generation assumes the greater risk and a higher return from the business operation. The vine right holder has a saleable interest. If transfer is staged the landowner receives a return for the portion of the operation that is not subject to the vine right. Right holder needs to ensure that property and water access is included in the vine right. If the transfer is staged, the holder will need to ensure exclusive assess to vine rights over time. They will also need to ensure they have a supply contract.
Other	This is an option uses a profit-a-prendre. Legislation is required to create the legal interest of a Vine Right e.g. making this similar to a Forestry Right which is a profit-a-prendre specified as a legal interest in the FRRA. To establish a Vine Right, legislation similar to the FRRA would be needed to create a saleable right that is adequate security for mortgage lending.

Examples

McArthur Ridge: Colliers were offering a profit-a-prendre for sale giving the purchaser the right to cultivate and harvest the fruit from approximately 62 hectares of vines. Tenders were invited for all or any part of the profit-a-prendre area. The profit-a-prendre was in perpetuity with an annual fee of five cases of wine per annum (subject to production levels). The sale price was expected to be close to freehold value. The profit-a-prendre did not sell partly due to issues with access to the water for irrigation and frost protection which was not part of the vine rights (Rural Real Estate Agent, personal communication).

Source: https://issuu.com/colliersotago/docs/mcarthur_ridge_im_

Overseas Investment Office (OIO) changes to limit the use of a profit-a-prendre in viticulture: This example provides a useful description of a profit-a-prendre with vines and explains how this has been used in New Zealand. Alistair King, Partner and Agribusiness specialist for Crowe Horwath, commented on Government restrictions and legislative changes on foreign investment. "The profit a prendre enables a person to take part of the soil or produce of land under separate ownership. For example, it enables wine makers to take grapes from land they don't directly own. The winery pays a fee to have access, it is not a change of ownership, so the land remains with the New Zealand owner. Essentially, it is similar to a grape supply agreement while the agreement also gives the winery control over how the vines are managed and ensures the grapes that are grown are of the desired quality and standard, while adhering to a predeveloped cost structure."
"With profit-a-prendre facilitating extensive investment nationally while leaving the land locally owned, it is the perfect instrument to enable thriving industries to grow and remain profitable, while also ensuring the land remains New Zealand owned"

Source: https://www.scoop.co.nz/stories/BU1807/S00495/foreign-investment-rules-could-have-unintendedconsequences.htm

John Gordon, Sharp Tudhope: John Gordon explained a proposal for vine rights. Vine rights has the stated objective being; to enable orchardists to enter the industry with a clear and more secure path to orchard ownership and allow an exit for existing owners on a secure but financially acceptable basis. Stated advantages; separates ownership (and value) of the vines and crop from the land, would not be caught by the definition of a 'subdivision', would dispense with the requirement for a survey plan and by-pass other rules about private roads and access, would be registered and not be affected by change of ownership or mortgagee sale. A separate Land Transfer title for the vine right would issue, title could be mortgaged to a Bank, Kiwifruit licence ownership could attach to the right.

Another interviewee (Rural Accountant, 01/05/2020) has seen a profit-a-prendre used with the subdivision of an existing vineyard into lifestyle blocks. A large processing firm had the rights to the fruit (grape rights). The area that the firm had rights to decreased over time as the lifestyle blocks sold. The owners of the lifestyle blocks had the option to continue with the grape right.

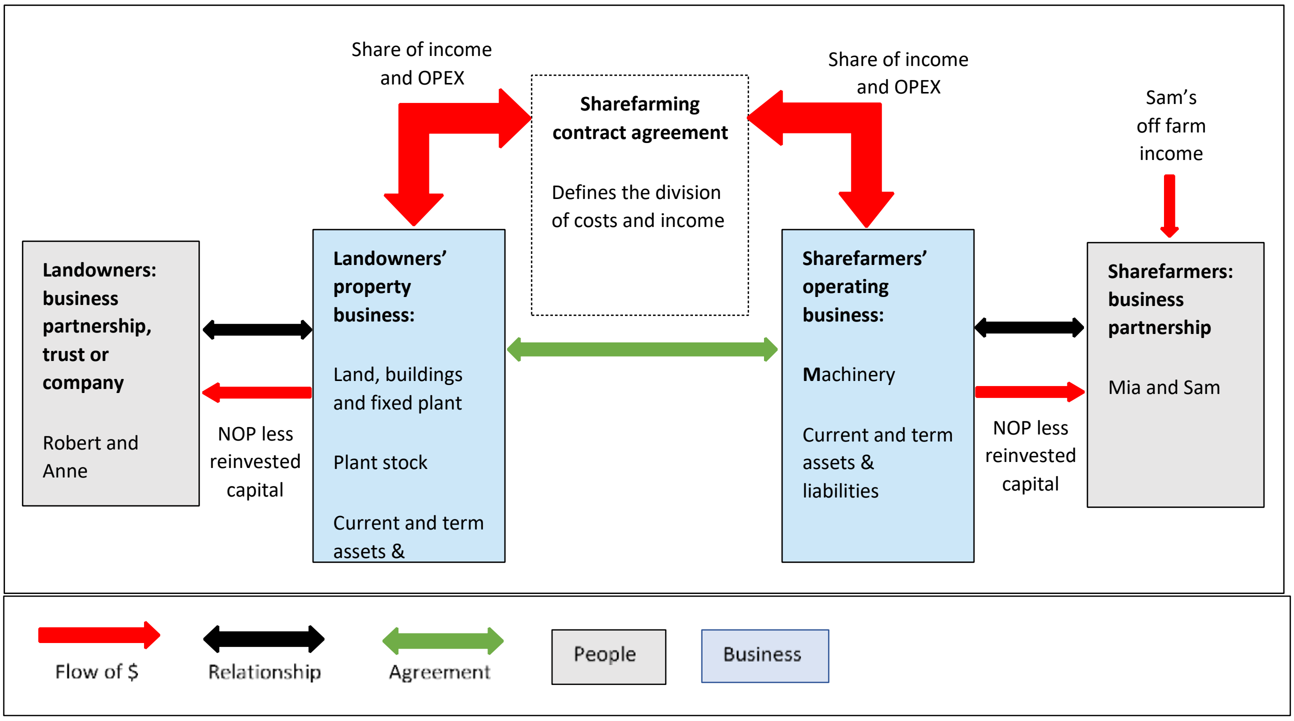
Another interviewee aware of the vine rights discussion suggested that this arrangement favours the young person and considers there is not much in this arrangement for the landowner.

6.3 SHAREFARMING

Description: A sharefarming business consists of two separate businesses, the landowner's property business (land ownership), and a horticultural operating business owned by the sharefarmers. There is a sharefarming agreement between the landowner and sharefarmer in the horticultural business. Each party provides different asset and labour contributions. The sharefarmer operates the horticultural business within the terms of the agreement. The parties are responsible for different costs and derive different percentages of the shared income.

Hypothetical case study for a 3 to 6 year sharefarming agreement: Mia has been working for Robert and Anne in their greenhouse-grown cut flower business and her partner, Sam, works off-farm as a consultant. Robert and Anne are nearing retirement age and want to have less involvement in day to day management but still retain ownership and some input into the business. They know that Mia has excellent management skills and they are keen to involve her in their business and provide her with an opportunity to progress in the industry. They all decide that a sharefarming agreement for a three-year term, with a right of renewal, is the best option for them. This will allow Robert and Anne to semi-retire. As a contractor, Mia is self-employed. She takes on full operational responsibility and will learn to manage the financial side of the business, be responsible for employing labour (permanent staff and casual), and further develop management and governance skills.

Mia and Sam have sufficient savings to purchase Robert and Anne's 4-wheeler and trailer and purchase sundry tools. Robert and Anne largely define the agreement terms and are involved in strategic decisions related to the business. To ensure that the agreement is fair to both parties they work through details with a consultant. They arrive at an agreed split of income and expenses that relates to their assets and inputs (e.g. Robert and Anne pay for land- and glasshouse-related costs, Mia and Sam pay for machinery expenses and labour). Robert and Anne will have a lower net income as Mia receives a financial reward for the risk she is taking (risk is shared between parties). Mia has some suggestions to diversify and improve quality that are likely to increase income for both parties in the future. The three to six-year term will give them all enough time to think about future options. Robert and Anne's son may be ready to return home to the property, and Mia and Sam will be building up equity towards their goal of horticultural property ownership.



	Considerations
Incoming generation (Sharefarmers)	Suited to sharefarmers who would like to be self-employed and aspire to build equity but do not have the capital to invest in, or develop, land. Level of experience can differ, but some experience will be required. The sharefarmers can build equity over time through returns generated by effective business operation.

Landowners	Suited to landowners with who want to retain land ownership but want to step back from management and/or give someone in the incoming generation an opportunity to manage the business. The landowner eliminates the need to provide machinery (depending on agreement), and the need to be responsible for labour (the sharefarmer is responsible for providing labour).
Security of land control	The terms of the Sharefarming Agreement will determine security. Agreements are generally short term (three years), often with right of renewal.
Equity	The sharefarmer does not build equity in the land and tends to own depreciating assets i.e. machinery. The landowner may benefit from capital gain.
Affordability	Sharefarming is more affordable than land purchase for the incoming generation. Limited assets are required (some machinery).
Flexibility	The agreement can limit flexibility. The sharefarming agreement is similar to, and often more precise, than a lease agreement in stipulating business activities. The Sharefarming Agreement covers: timeframe, responsibilities, management policy, maintenance, apportionment of income and costs, dispute resolution, details of assets of the parties, special conditions, dispute resolution process. The sharefarming business is responsible for tactical and operational management.
Communication	The sharefarming agreement sets the terms and conditions. There is limited interaction between the parties, although good communication is required to negotiate terms or evaluate unexpected circumstances. Both parties need alignment of goals and values.
Control and requirements	The sharefarmer has considerable management control within the constraints of the agreement. The level varies depending on the assets and responsibility the sharefarmer takes on: the more assets they provide and responsibility they take on, the greater their control, responsibility and level of input (e.g. costs, assets), and the higher their share of the returns and risk.
Access to capital	Options to borrow capital will be limited. The sharefarmer will need some initial capital and may be able to borrow to purchase machinery and cover overdraft. The sharefarming agreement provides some certainty for raising finance.
Risk and return	The risk and return are shared between the sharefarmer and the landowner. The landowner has the additional risk of reliance on the sound management practices of the sharefarmers. Poor management can negatively impact the value of land and plantings which can be a risk to the landowner on resuming control. Sharefarmers will need to ensure they have a supply contract for some crop types.
Other	Sharefarming provides the opportunity for the sharefarmer to own their own business (as a sharefarming contractor) and develop new skills e.g. financial management, labour management

Example

Fred Willemssen, Holland: Fred was farming with his brothers on the family farm before setting up his own company to farm the Vollenberg's farm. The Vollenburg's were wanting to step back from running their chicory nursery and vegetable growing business. Fred worked with the Vollenburg's for six months before buying 6.5 hectares and sharecropping the remaining 10.5 hectares. This arrangement continued for two years at which time Fred leased the 10.5 hectares for a six-year term. He was also able to amalgamate his portion of the family business (19 hectares). He raised bank finance, helped by his history on the family farm.

Source: http://www.forum-synergies.eu/docs/farm-succesion-brochure.pdf page 41

7. Whole Business with Shared Ownership

All parties hold the interests in common and income is shared in a multi-investor horticultural business.

7.1 EQUITY PARTNERSHIP

Description: In an equity partnership a small group of individuals agree to pool capital, skills and resources to invest in a shared business, with all business assets and liabilities jointly owned. The business is structured as a limited liability company (LLC) with partners having shares and receiving dividends according to their investment. The LLC has a Board, Constitution, and Shareholders' Agreement covering entry, exit, valuation, transfer agreements and time frames. This company entity can also access term and seasonal lending. A limited liability partnership (LLP) could also be used. Most equity partners have an equity (investment) interest only. One partner may be an equity-manager (incoming generation), who manages the business for a market salary as well as having equity. Alternatively, the business may employ a manager. The equity partnership structure is useful for both family succession where it is becoming common (as in example provided), and for investor-owned equity partnerships which usually have 3 to 5 investors with one sometimes being an equity-manager. Equity partnership ownership and business models vary e.g. an LLC could include all assets including the land asset, or the land could be held in a property Trust and leased by an operating LLC business.

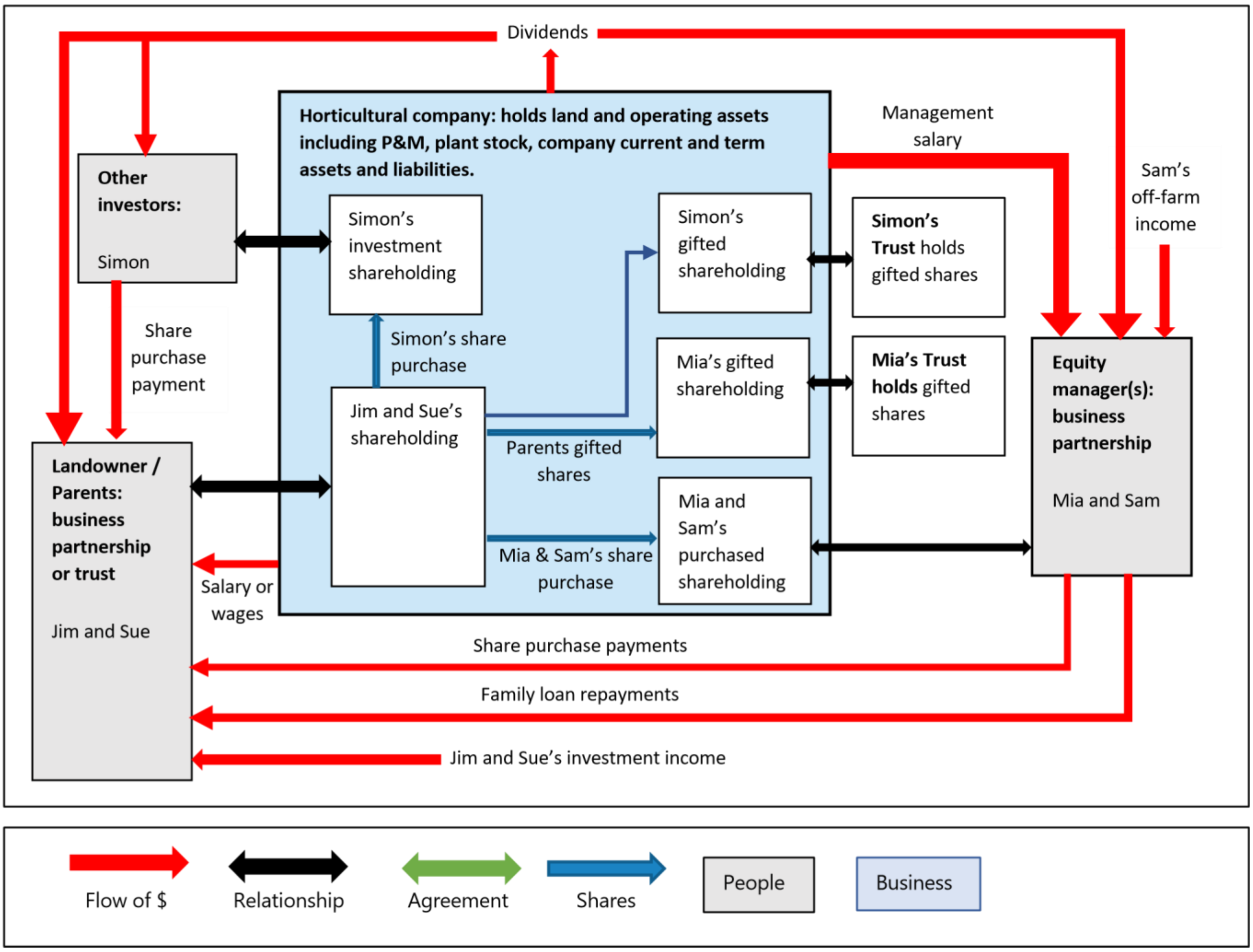
Hypothetical case study for an equity partnership for family succession: Jim and Sue own an avocado orchard. They are in their 50s and keen to step back from day to day management. They built up the family business and would like to see the next generation take over. Two of their children, Jane and Simon, have established careers off-farm: Simon is still interested in the business but Jane less so. However, their daughter, Mia and her partner, Sam, are interested in taking over the business. Mia did a horticultural degree prior to working in the industry, most recently in the family business which has worked well. Sam works off farm as a consultant. Mia and Sam are enthusiastic about opportunities to grow the family business – perhaps marketing some of the produce differently or growing an alternative enterprise or other varieties to spread risk. They have been saving and investing to build capital towards business ownership.

After discussion with advisors, Jim and Sue establish an equity partnership to facilitate family succession. They decide to include the land in the company rather than retaining the land in a trust like their neighbour. Including land means family will only be able to afford a small proportion of the business shares initially, but they will benefit from any capital gain in the land value of the proportion they own. Otherwise it will be more expensive for Mia and Sam to purchase the land in future.

They set up a horticultural company which owns all business assets and they own the shares. Directors are Jim, Sue, Mia and an independent director. Mia and Sam purchase a small but significant number of shares from Jim and Sue with their savings, a bank loan and a substantial family loan. Jim and Sue know ownership transfer will be slow so provided Mia and Sam with the loan so they could afford an initial 10% investment in the business. Jim and Sue also realise the value of the business is such that they will have to retain a lifetime stake in it. Mia and Sam's payment for shares from the bank loan and savings frees up some capital for Jim and Sue. Simon also purchases some shares as an investment. The horticultural company pays dividends according to shareholding. Jim and Sue can use income from wages, share dividends, and income from ongoing sale of shares to Mia and Sam, to live on, invest, help non-succeeding children and eventually retire. They help Jane with a house deposit and set up Trusts for Simon and Mia (for asset protection) and gift them shares into the Trusts annually. They also have other investments for retirement income which will go to Simon and Jane in their wills.

Sam and Mia increase their shareholding over time by purchasing shares at current market value. Mia has operational management of the property for a management salary, and Sam continues working and bringing in outside income until they own sufficient shares to support both of them working in the business, by which time Mia's parents have retired off-farm. Over time, Mia and Sam assume most of the business management. By then, the business has also grown, in part through their ideas and input in increasing productivity and developing new ventures. Simon also has a small proportion of the shares and retains an interest in the business.

Mia and Sam are pleased they decided to return to the family orchard. They had also been offered an equity manager on an orchard that one of Mia's previous employers was setting up with three fellow orchardists. This would also have been a great opportunity to build equity in a similar way to what they are doing on the family orchard, with the potential for either long-term management and development on a block they partly own, or to exit in a few years having built equity in savings and shares (sold when they exit).



	Considerations
Incoming generation (equity manager)	Suited to family succession enabling easy asset transfer (shares) over time. The incoming equity manager requires some equity initially. A company structure with a formal board, management meetings, specified roles and job descriptions and often external party input can help facilitate ownership and management transition. Suited to experienced young equity managers with substantial capital who aspire to business ownership but cannot afford to purchase a freehold business and/or aspire to work in a larger business. This provides part-ownership, ability to increase investment via share purchase over time, and a management or specialist role in the business.
Landowners	Suited to family succession as previously discussed. Suited to landowners can also use this option with a skilled and motivated young person with similar goals and values, who could be an ex-staff member or similar, to offer them an opportunity for land ownership to e.g. if no family or family not interested.
Investors	Suited to outside investors wanting to invest in horticultural business often with people they know. This can be an attractive investment option for those already in the primary industries. Employing an equity manager provides the opportunity to employ/co-invest with a skilled and motivated staff member, or similar, to manage the business. Employing an equity manager facilitates retention of management expertise in their business.
Security of land control	Depending on the Shareholders Agreement, this option can offer high, long term security.
Equity	An equity manger can build equity over time through share purchase, sweat equity (shares or recompense for adding value to the business), gifting by landowners and any capital gains in the property (if land in the company). They can start with a small amount of equity e.g. 5-10%.
Affordability	An equity manager can start with a small investment and build equity over time. With this option they can afford a small share of a large business in which they are likely to have a management or specialist role, rather than doing everything in a smaller freehold business.
Flexibility	Long term commitment and expectation of increasing ownership enables long term decisions and plans. Shared expertise and capital provide investment opportunities, and ideas for increased productivity. Less flexibility because of need to work with others.
Communication	Formal and informal communication (e.g. Board and management meetings). Documented business plan. More likely to be clear role definition, including job descriptions which are reviewed and progress over time.
Control and requirements	An equity manager has limited control of strategy as a minority investor. Shareholders Agreement and Board will stipulate business strategy and monitor business performance. Can be risk of dominance by one party e.g. majority investor, parent. Outgoing generation can be reluctant to hand over control e.g. family situation.

Access to capital	The Horticultural Company will borrow some of the capital leveraging investment capital. The equity manager will need some investment capital and may be able to borrow against shares. Share purchase by incoming members frees up capital for landowners or exiting investors.
Risk and return	Guaranteed income with management salary for the equity manager. Shared risk over multiple parties. Variable income from dividends depending on returns and reinvestment. The business will need to ensure they have a supply contract for some crop types.
Other	Need alignment of goals and values between all investors. Clear, documented entry and exit strategies required at outset (in Shareholders Agreement). Opportunity for equity managers to further develop skills e.g. financial management, labour management, specialist roles. Being part of a larger business can provide access to technologies that a small owner-operator business may not be able to afford.

Examples

Moffett Orchards Ltd: A family company set up by Jonathan and Christine Moffett and their son Jonty. Jonathan and Christine began their horticultural career by leasing a block of peaches in 1968 and they have grown the business to 90 hectares of apple orchards and 100 hectares of cropping land. They have four children, three of whom now work and have shareholding in the business. Source: http://www.lovebite.co.nz/our-story/

EZ Grow Farms, Ontario: EZ Grow was purchased by Dusty Zamecnik's grandfather in 1975. His father Darryl bought shares in the business that took him fifteen years to pay off. He has a different plan for Dusty's succession in the business. Dusty is an only child and is now the family appointed director with signing decision making powers for EZ Grow Farms. He will purchase his parents shares as part of their retirement plan and he has purchased a farm that was previously leased by the family. Dusty plans to merge his own land with EZ Grow Farms in the future. He currently manages the strawberry division of the EZ Grow Farms. Family retain active roles on the farm as the full succession plan rolls out, with non-family members in middle management layer running day-to-day operations.

Source: https://www.familyfarmsuccession.ca/success-stories/ez-grow-farms-the-entrepreneurial-farmers2200

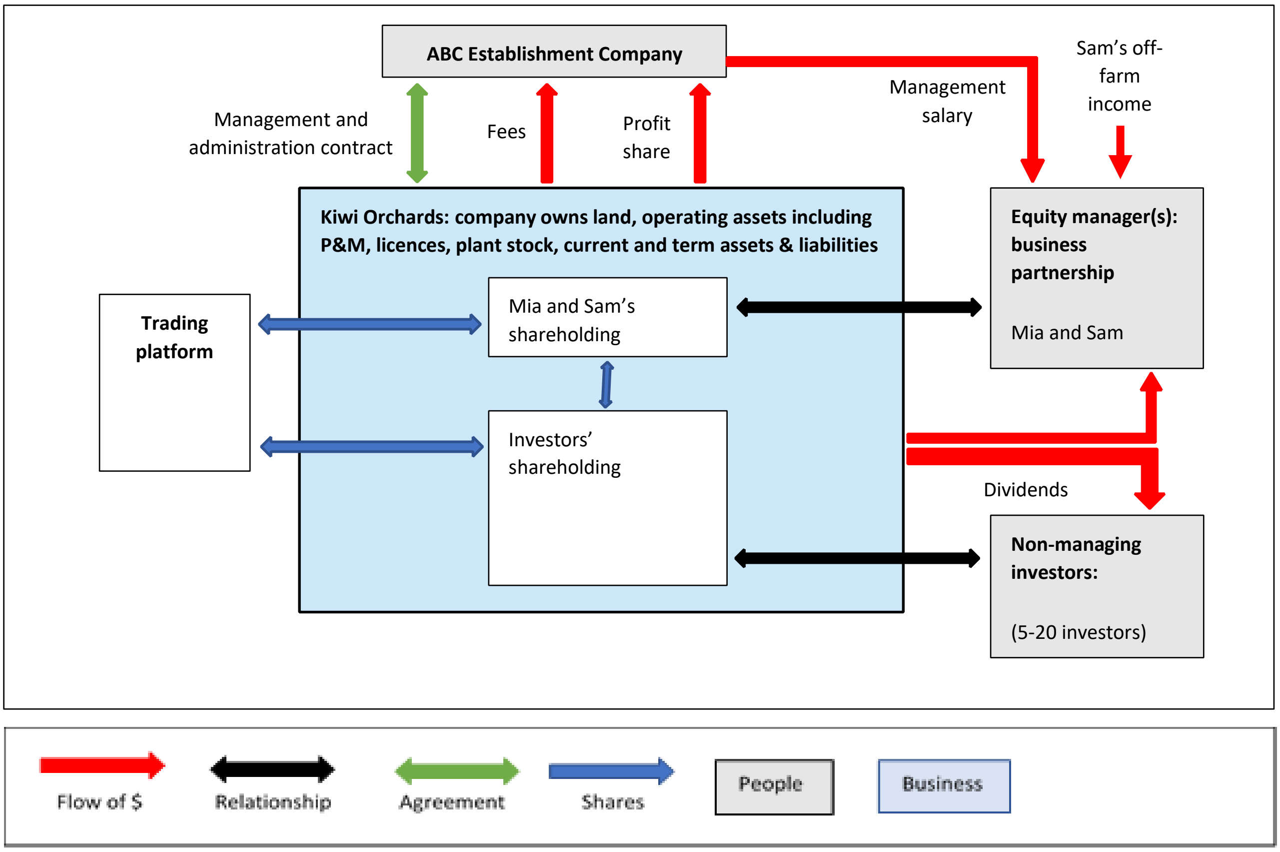
Family viticulture operation: A large viticulture operation set up a company with corporate governance that has been successful. Three successors have different roles in the business according to their strengths in finance, marketing and production (Business Consultant, personal communication).

Negotiating private equity partnerships in Australia: This research describes a direct equity partnership, formed 'when a farmer and an investor come together to create a new capitalised farm business, with shared ownership and clear guidelines around the roles and responsibilities of the farmer and investor.' Details are given of capital raising by a large, profitable family farming business. (A. Langford, 2019)

7.2 MANAGED SYNDICATE

Description: In a managed syndicate, an establishment company (such as MyFarm or Kiwifruit Equities) purchase or develop a primary industry business and set this up as an LLC or LLP. The establishment company divides this primary industry LLC or LLP into shares or units which are advertised and sold to investors, with minimum purchase requirements (around $100,000). The establishment company continues to supervise and/or manage the business for a period in return for fees and a profit share. There could be an opportunity for an equity-manager (incoming generation) to be one of the parties investing in the business.

Hypothetical case study for an equity manager in a managed syndicate: The ABC Establishment Company sets up a kiwifruit orchard (Kiwi Orchards) as an LLC and is offering shares in this orchard to investors. Mia started working for the ABC Establishment Company on one of their managed kiwifruit syndicates five years ago. She has stayed with the company and progressed from orchard worker to orchard manager, initially managing a 6 canopy-hectare orchard, and more recently, a 12 canopy-hectare orchard. The ABC Establishment Company knows that she is a skilled manager and offer her an equity management position on the Kiwi Orchards property. In this role, the ABC Establishment Company will pay her a competitive market salary with a performance bonus. Mia, and her partner Sam who works as a consultant, have saved the $100,000 to buy the required equity to take on the role of equity manager. They will also receive dividends from their equity shareholding. Over time, they purchase more shares in Kiwi Orchards which have been offered for sale by other non-managing investors. After Mia has managed the property for 10 years as an equity manager, they have enough equity to consider alternative land ownership options and look carefully at the option of purchasing a small orchard. However, they decide to continue with equity management as Mia enjoys the challenges that come with managing a large, innovative and complex business with the opportunity to increase equity over time.



	Considerations
Establishment Company	The establishment company sources a developed property or one suitable for development. It then sets up the business structures, markets the investment and provides management and administration services for a fixed period. In return, they receive an establishment fee, supervision/management fees, administration fees and a performance-based profit share.
Incoming generation (Equity-manager)	Suited to experienced young managers with some capital ($50,000-$100,000) who aspire to business ownership but cannot afford to purchase a freehold business and/or aspire to work in a larger business. Equity management provides part-ownership, ability to increase investment via share purchase over time, and a management or specialist role in the business.
Investors	Suited to outside investors, usually with at least $100,000, wanting to invest in a fully managed horticultural business for the medium to long term e.g. 4 year minimum. A managed syndicate could be used in family succession where a large family venture has commercial potential to bring in outside investors, leaving options open to family members to buy/sell units in the syndicate over time.
Security of land control	A Shareholders' Agreement covers entry, exit, valuation and transfer agreements, and time frames. Depending on Shareholders Agreement can offer high, long term security.
Equity	Incoming generation can build equity over time through share purchase, performance bonuses and capital gain in the property.
Affordability	Facilitates ownership transfer. Incoming generation can afford a small share of a large business. They can start with a small investment and build equity over time.
Flexibility	Long term commitment and possibility of increasing ownership enables long term decisions and plans. Shared expertise and capital enable investment, opportunities, and ideas for increased productivity.
Communication	Documented business plan. Formal and informal communication. Clear role definition including job description which progresses over time.
Control and requirements	Incoming generation has limited control as a minority investor. Similarly, external investors have limited control during the period that the establishment company supervises the business. Shareholders Agreement and Board will stipulate business strategy and monitor business performance.
Access to capital	The Horticultural Company is financed by the investors equity contribution and company term and seasonal lending. The incoming generation will need some investment capital and may be able to borrow against shares
Risk and return	Shared risk over multiple parties. Guaranteed income with management salary for incoming generation. Variable income from dividends depending on returns and reinvestment. The business will need to ensure they have a supply contract for some crop types.

Other	Need alignment of goals and values with other investors. Limited input into decisions (small investor). Clear, documented entry and exit strategies at outset. Managing a larger business provides the incoming generation with an opportunity to further develop skills e.g. financial management, labour management. Being part of a larger business generally ensures better access to technologies that a small business may not be able to afford.

Example

Craigmore's career pathway: Craigmore offer a career pathway for young people to progress in the industry. This could start with a University Scholarship progressing to a role as a second in command in a horticulture business, before progressing to orchard manager. Once the young person has management experience there may be an opportunity to become a Pod Manager, with an equity investment in a pod of orchards over which they have management responsibility.
https://www.craigmore.com/careerpathway/career-pathway/

8. Separate Alternative Business Structures

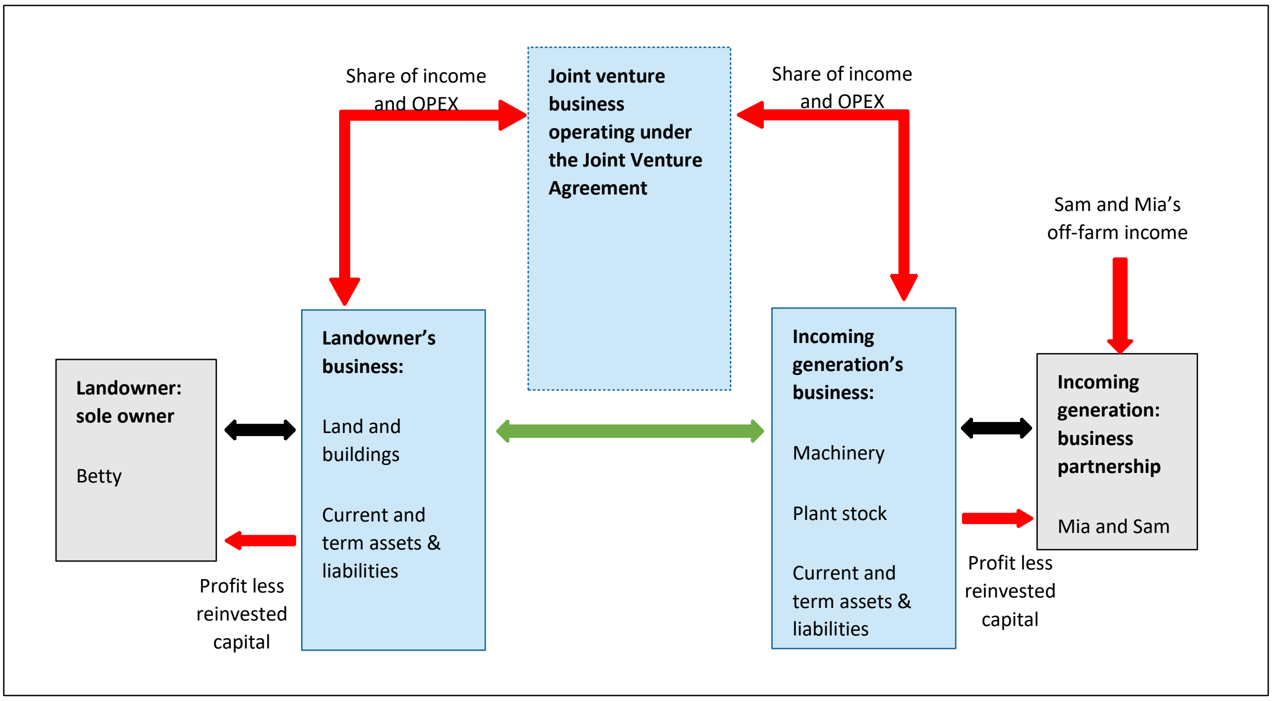
Two or more parties with separate, complementary assets and businesses work together to manage a single business for mutual benefit. Each party will be responsible for different aspects of the business.

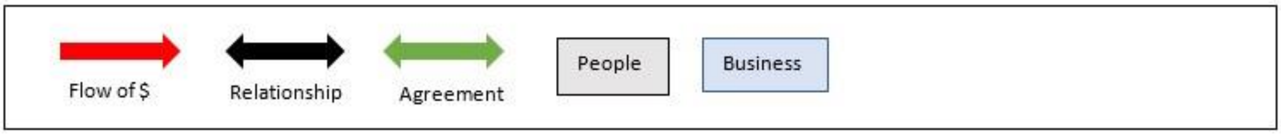
8.1 JOINT VENTURE

Description: The new horticultural business is developed and operated jointly by two, or more, separate parties, one of whom will be a member of the incoming generation. Each party provides different asset and labour contributions and jointly run the horticultural business operation. The parties incur different costs and derive different levels of return from the shared income in accordance with the joint venture agreement. Joint ventures can use sharefarming, contracting, leasing or equity partnership models as the business structure for the new business.

Hypothetical case study for a new business venture: Mia and Sam have been working as a rural banker and a consultant, respectively, since graduating with degrees in agribusiness and horticultural science five years ago. Mia and Sam are keen to have their own small horticultural business and have been talking to their friend, Betty, about setting up a pick-your-own blueberry business on her lifestyle block. Betty is in her 60s and wants to live on the property but is no longer physically able to manage the land. She is very interested in Mia's proposal and would like to have some involvement in the retail side of the business. There is a workshop/implement shed that is not being used that will be useful for conversion to a farm shop and to store equipment.

Mia and Sam have enough money saved to purchase the plants, 4-wheeler, trailer, spray gear and sundry equipment that they need. Mia will provide all the labour and machinery; Betty will provide the land and is looking forward to running the shop once the business is established. They decide that a sharefarming agreement is the best structure for operating the business with a 50/50 split of profits. After five years they have a successful small business, the blueberries are at full production. All fruit is pick-your-own and Betty is managing the shop over the picking season pre-Christmas. A local dairy farmer, John, has suggested expansion to include an ice cream venture for which he would provide the milk. Mia, Sam, Betty and John have plans going forward to expand the shop and set up a second joint venture, purchasing an ice cream maker and selling ice cream over the fruit picking season.





	Opportunities and Challenges
Incoming generation	Suited to a member of the incoming generation keen to be involved in a new business (likely to be their idea), possibly as part of the wider family business, who would like to be self-employed and aspire to build equity but do not have the capital to invest in or develop land. Some production experience would be required. The incoming generation can build equity over time through returns generated by effective business operation.
Landowners	Suited to landowners who want to provide an opportunity to co-invest, and possibly work, with the incoming generation (family or external) to develop a new business on their land. A number of business arrangements can be used. Useful where there are one or more successors to a family business and new businesses are developed as part of the business growth strategy for succession.
Security of land control	Terms of the Joint Venture will determine security. These are likely to be intended to be long term ventures
Equity	The incoming generation does not build equity in the land. The landowner may benefit from capital gain. The joint venture is likely to grow in value which will benefit both parties
Affordability	This is an affordable option for the incoming generation. Limited assets are required (some capital and/or machinery)
Flexibility	Strategic decisions are likely to be made jointly. Operational management is likely to be provided by the incoming generation.
Communication	Good communication is essential because the parties must work closely and agree on business management

Control and requirements	The landowner and incoming generation share management control. This will vary depending on the agreement and relative contributions
Access to capital	Options to borrow capital will be depend on the nature of the joint venture. It is possible that the landowner will provide some establishment capital. The incoming generation may need some initial capital and may be able to borrow to purchase machinery.
Risk and return	The risk and return are shared between the parties. The business will need to ensure they have a supply contract or market for some crop types.
Other	Need strong alignment of goals and values with landowner. Opportunity for incoming generation to develop new skills e.g. financial management, labour management. The new business could be complementary to the existing business on the property and there could be some shared use of facilities.

Examples

Tendertips and Lewis Farms: "Geoff Lewis and his wife Liz started Tendertips back in 1980. Geoff's son Cam and wife Catherine together jointly own Tendertips and have recently diversified into strawberry growing in polytunnels under their new brand - Lewis Farms."

Source: https://www.tendertips.co.nz/

HBH Farming, UK: A UK example of a joint venture business between a group of three cropping farmers who had found that rising costs were limiting reinvestment in their business. They pooled their land and sold their farm machinery. They then set up a joint venture using a LLP to operate a contracting business that provided labour and machinery operations to the three farms. Over 15 years they have built an efficient operation that has high quality machinery, increased land holdings and a clear succession path for the partners.

Source: https://www.fwi.co.uk/business/arable-joint-ventures-bring-much-cost-reduction

Other: An interviewee (Rural Valuer, 30/04/2020) described how two young men built up a portfolio of kiwifruit orchards. They started with nothing, then built up a spray contracting business, after which they set up a joint venture with an investor (with family ties) to purchase kiwifruit orchards during PSA when prices were low. The investor provided most of the finance and the young men were able to borrow capital. After some time, the investor wanted his capital out and the young men were able to do this by selling some of the orchards while still retaining ownership of other orchards.

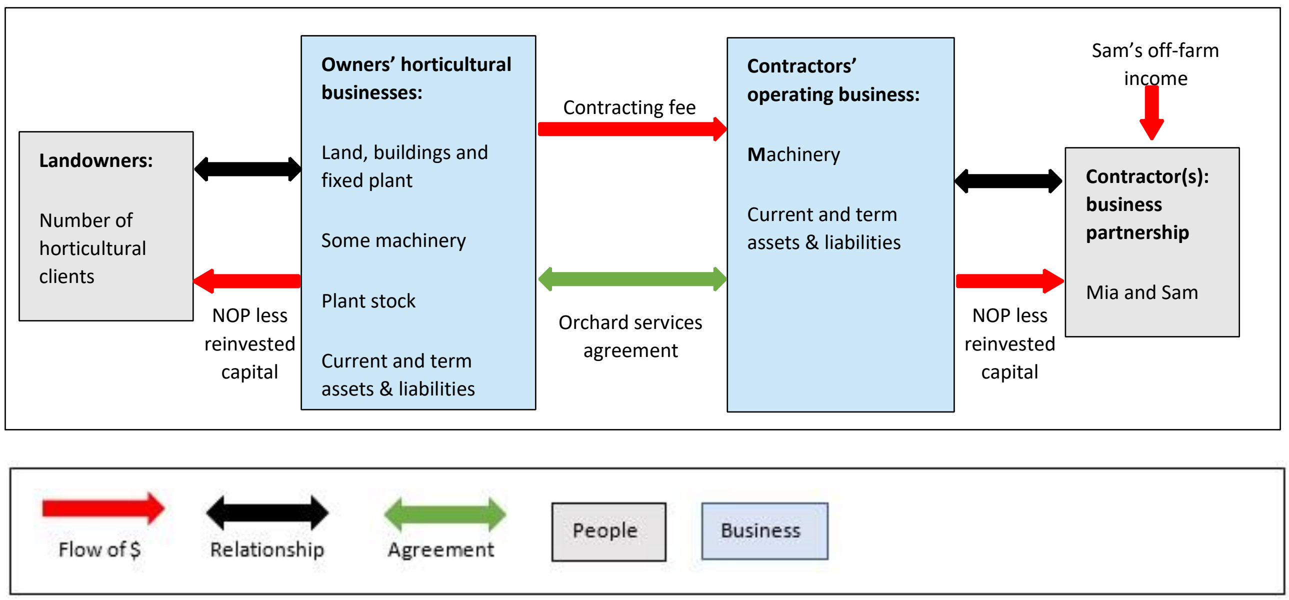
8.2 CONTRACTING

Description: A self-employed contractor (incoming generation) agrees on a price with a landowner to provide a service to their horticultural business in some aspect(s) of growing and /or harvesting a crop, orchard or vines. Tasks could range from a single operation to full orchard management. A contracting fee can be an hourly rate or a fixed rate per unit (e.g. per ha, tray kg). An Orchard Services Agreement, or similar, specifies tasks, timeframes and performance standards. A contractor will have a number of clients and may employ labour.

Hypothetical case study for establishing a contracting business: Mia has been working on a kiwifruit orchard in the Bay of Plenty for 5 years and is familiar with the operational management tasks required on the orchard. Her partner, Sam, works as a consultant. Mia is keen to take the next step in her career but they have limited capital. She enjoys the staff management aspects of the job, is active in the community and knows quite a few people in the industry locally. On weekends, they sometimes help other growers, especially when experienced labour is in short supply. This gives her the idea to provide a contracting service employing staff and offering pruning, picking and mowing services which require minimal machinery to set up. She discusses the idea with a number of people for a range of perspectives and advice, and canvasses some of the local businesses, including personal connections via family and friends, to see whether they would be willing to provide her with work.

They decide to go ahead, so Mia hands in notice in her current job and they purchase an orchard tractor and trailer, mowing equipment and sundry other equipment with savings and a small loan. Sam's job provides surety of income while she gets established. Mia enjoys being self-employed and getting all the rewards from her efforts but it has its challenges: it is a steep learning curve and at times has a high workload that needs to be managed but she enjoys the challenge. She gains a reputation for providing consistent timely, high-quality work and attracts more clients, largely through word of mouth. She employs casual workers to get the work done and has a good network which helps in accessing staff. Sam helps when he can.

Over time, they invest in more machinery and develop specialist expertise in some jobs. After 10 years they have a range of machinery and can offer full orchard management services. They offer multi-crop services across regions and gangs go to where the work is required. Sam now works in the business and they employ permanent staff and regular casual staff. Mia and Sam have had a few offers of orchard management positions from satisfied clients but they like being self-employed. However, a client recently decided to step back from management, indicating he would be willing to lease his orchard to Sam and Mia, or even consider an equity partnership and eventual ownership since his family are not interested. They now have considerable equity in savings and equipment, and the skills required. This opens another exciting opportunity for them to consider as a next step. The contracting business is doing well and could possibly still be retained with permanent staff taking on more responsibility in the business. Alternatively, they could continue to grow the contracting business.



	Considerations
Contractor [incoming generation]	An option for someone in the incoming generation, possibly with limited capital, to set up their own business. Contracting could also be a way to develop a spinoff business to help build equity and management experience.
Clients [landowners]	Getting in contractors is a good option for a landowner wanting to step back from some aspect of management, or avoid purchasing infrequently used, expensive machinery. Having contractors reduces workload, responsibility and skills required: the contractor has the responsibility to get the job done according to the agreement and employs and manages any labour required.
Security of land control	Not applicable
Equity	Can build equity over time in the contracting business. However, assets owned are depreciating i.e. machinery. The business could start with inexpensive machinery, such as an orchard tractor and sprayer to owning multiple machinery and employing a team of operators to provide a full orchard management service to clients.
Affordability	A contractor can start with a small investment and build equity (savings, further equipment) over time.
Flexibility	High level of flexibility as self-employed. However, the contractor does need to be available for clients when they need work done or can lose business.
Communication	Communication skills and strong networks are essential to find and work with clients, and possibly manage staff as the business grows.
Control and requirements	Total control, and total responsibility in their business, as the contracting business owner. The agreement specifies what, when and how the work is done. The landowner/client is reliant on the contractor being available and doing the work as required.
Access to capital	The contractor may need some investment capital or a small loan to get started and expand.
Risk and return	Contractor has total risk and return as business owner. There is risk in finding enough work to provide a good income, spread over time so they are able to deliver quality work. Work input and willingness to work is a strong determinant of returns.
Other	Self-employed, and can offer a service in something they enjoy doing. Opportunity to learn a range of business skills including: financial, labour and client management, machinery maintenance and knowledge of contracting. Contractors can specialise in a particular service and provide up-to-date technology in this area. Provides opportunities to make contacts in the field they are working in which is an advantage when looking to take the 'next step' in their career. Machinery can be transferable to the 'next step' in their career.

Examples

Baygold Ltd, Orchard management: "The McBride family came from a dairy farming community in the Waikato in September 1978. Jim McBride purchased his first Hayward Green, 3 hectare Tee Bar Orchard, 7 kilometres up No. 3 Road. In raising 2 daughters and 3 sons, there was good confidence in the market and plenty of opportunity for the children to work on their kiwifruit skills and sometimes earn some pocket money. This succession continued with Murray, the middle child, taking up his opportunity to build a life and business within the industry. This dedication, investment and commitment has led to the development of multiple orchards and a management company called BAYGOLD Ltd." https://www.baygold.co.nz/about-us/

Contracting businesses: Contractor management and other contractor services are common in the kiwifruit and avocado sectors. Family can help by providing storage space for the young contractor to store their machinery while they get established, and/or possibly letting them use family own machinery (Horticultural Consultant, personal communication, 23/04/2020).

Other:

An interviewee (Horticulture Manager, 29/04/2020) mentioned extended Indian family groups being very successful in investing in the kiwifruit sector. They start as pickers, then work together in a contracting business offering services to kiwifruit growers enabling them to identify orchards they could add value to. They pool resources to purchase and improve rundown orchards which they on-sell, and repeat the process increasing equity each time.

An interviewee (Rural Valuer, 30/04/2020) explained how two young men built up a portfolio of kiwifruit orchards. Starting with nothing, then established a spray contracting business growing equity and gaining experience. Through their contracting business they built up equity, and with an investor (with family ties) they were able to purchase kiwifruit orchards during PSA when prices were low. The investor provided most of the finance: the young men were able to borrow some capital toward their share. Over time they purchased a number of orchards. When the investor wanted his capital out, the young men paid him out by selling some orchards while retaining ownership of other orchards.

9. Alternative Business Ownership Structures

This section describes business ownership structures which are not typically used in horticulture in New Zealand.

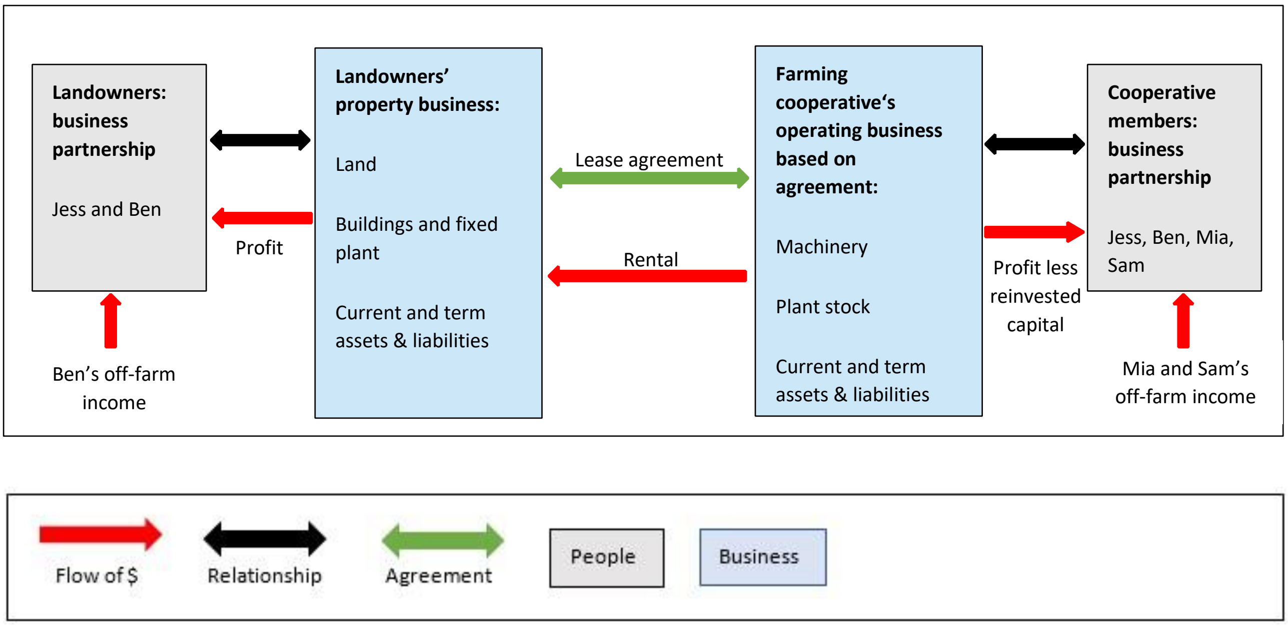
9.1 COOPERATIVE

Description: A cooperative is a legal entity owned, controlled and operated by its members for their mutual benefit. The group pool capital to invest in a shared business which operates within the cooperative principles of user ownership, user governance, user control and decision making, and user benefit. The defining nature of a cooperative is the principles under which it operates rather than the underlying structures: an investor owned firm and a cooperative could have the same structures but different intent i.e. IOF wants profitable return for investors. Similarly, not all collaborative initiatives are necessarily cooperatives. There are two sorts of cooperatives: (1) several businesses share resources or services e.g. equipment, labour, purchasing inputs, marketing e.g. Fonterra is a processing and marketing cooperative, and (2) individuals work together on a single operation with multiple owners e.g. worker cooperative.

Hypothetical case study for a workers cooperative: Mia and Sam have spent the past two years travelling around the world working as WWOOF (World Wide Opportunities on Organic Farms or Willing Workers on Organic Farms) volunteers. They have a background in horticulture and are passionate about organic production and cooperative principles having learnt a lot about both during their time abroad. They have decided to return to New Zealand to set up a growers' cooperative that provides fresh organically grown fruit and vegetables to the Wellington market. They have limited savings and know they will need to work with other like-minded people to build this business.

Their good friends, Jess and Ben, have recently purchased a run-down 5 hectare lifestyle block north of Wellington which they jointly own. The land is suitable for vegetable production, and with no chemical or fertiliser input for a few years, could fast-track organic certification. However, Ben works off-farm and Jess is busy with their three young children, so they do not have time to run an intensive enterprise without outside help. Jess and Ben are keen to form a cooperative with Mia and Sam and willing to lease land to the venture.

The cooperative will initially lease 2 hectares and grow a range of vegetables using organic principles which they plan to sell via farmers markets and delivery of weekly vegetable boxes. Longer term, they plan to extend the land area leased and are considering planting berries once they have sufficient capital to invest in establishing these. They all have equal input into business decisions. Mia and Sam provide most of the labour. They also host WWOOFers to help with labour. It is agreed that all cooperative members will be paid a percentage of profit based on hours worked. They pool capital and purchase an older tractor, second-hand equipment, seedlings and other requirements. Mia's family is supportive of the initiative and helps with a small family loan. Mia and Sam also supplement their income with part-time casual work in the area. The cooperative is currently operated as an ordinary partnership, but in the future, they may consider an LLC or LLP. Mia and Sam will build their equity over time through hard work and marketing innovation to add value to output. Long term they want to see the cooperative grow in membership, land area, crop diversity and returns. There are tentative plans for the cooperative to purchase some land from Jess and Ben in the future, if possible, freeing up capital so that Jess and Ben can renovate their home.



	Considerations
Incoming generation	Suited to potential members with limited resources, willing to work collectively with others with similar goals and values to invest in and possibly develop the land. Some members will need horticultural and/or marketing capability. Some will want to work on the land. Equity is built through returns from effective business operation.
Landowners	Suited to landowners who value the attributes of a cooperative structure and are keen to work collectively with others with similar goals and values, including people from the incoming generation prepared to work in the business. This could give landowners who want to retain land ownership but want to step back from working in the business to take on an ownership or management role.
Security of land control	Each member's security depends on the agreements (cooperative and land lease), the needs of the member and/or tenant, and the reliability, integrity and wants of other members in the cooperative.
Equity	Equity is aligned to investment (capital and labour) plus members percentage of appreciation, subject to liabilities. The cooperative's bylaws will dictate equity redeemed. Equity can be transferred to other members relatively easily.
Affordability	More affordable for cooperative members than land ownership, leasing and sharefarming since the business is jointly purchased by the cooperative members.
Flexibility	Flexibility depends on the cooperative collective agreement. Collective or representative decision making is required. Individual flexibility may be increased if the landowning company leases land to individual cooperative members separately e.g. for different enterprises. Flexibility in working arrangements may be possible.

Communication	Members need to understand the cooperative principles, values and structures. They also need to align with the underpinning goals and values of the cooperative e.g. organic production methods. Frequent communication between members is critical to success. Time and effort are required to sustain the cooperative.
Control and requirements	A cooperative will often stipulate management practice requirements that apply to land users, whether as direct owners or as tenants on the land. Democratic governance and equity are core components: each member usually has one vote.
Access to capital	Borrowing from traditional lenders for cooperative-owned businesses may be difficult.
Risk and return	Risk and return are shared by the members. The cooperative's bylaws determine return of profits to members. Cooperatives allow economies of scale which can result in greater profit per unit input (lower input purchasing costs, higher net returns from sharing marketing costs and equipment). The business will need to ensure they have a supply contract or market for some crop types.
Other	Member commitment is essential to the success of the cooperative. Members have specific responsibilities. Democratic governance can pose risks to individual members and lead to inefficient decision making. More active members may not receive a proportionately greater reward: benefits are for the good of all. Combining resources and knowledge can result in greater success. A range of different shared business and ownership structures could be used. Can be a lifestyle choice and opportunity to work according to principles and beliefs.

Examples

Spring Collective, Leeston: Spring Collective Limited is a cooperatively run organic market garden that supplies high quality fresh produce to the local community through farmers markets, vegetable boxes, restaurants, and organic wholesalers. The collective practices sustainable and regenerative farming techniques reflecting their commitment to protecting and improving soil and benefitting community. Source: https://springcollective.co.nz/

Winter Green Farm, Oregon, USA: An established farming couple, having built a strong relationship with a younger couple who worked for them, offered them an opportunity to buy into the business. They formed a farming company with unequal ownership but equal decision making. They brought more new members in over time, gifting some equity and retaining equal decision-making power. To facilitate retirement, they intend to restructure the business into a land-owning company which leases the land to a farming company. This will reduce the cost of entry to young people looking to buy in to the farming company and the older members can step back from management and retain their financial interest in the land.

Source:
https://greenhorns.org/wpcontent/uploads/2018/07/Greenhorns_Cooperative_Farming_Guidebook.pdf
(page 15).

9.2 AGRICULTURE CONSERVATION EASEMENT

Agricultural conservation easements have been used in the USA and Canada to enable succession arrangements with environmental benefits. A restrictive covenant or easement sets out specific conditions about what the land can be used for. This is registered on the title and survives the transfer of title between private owners (Baxter, 2013). The easement reduces the market value of land used for primary production to a value relative to production levels. The current landowner donates the conservation agreement and receives tax advantages for the value of the agreement (Canada, USA), incentivising the use of these. Tax benefits may not fully offset the difference between market and productive land value but could be acceptable to a landowner who wants to ensure conservation of primary industry land. The incoming generation of growers have tenure security, and the reduced price/value may enable them to purchase part, or all, of the land.

The restriction on land use, with the conservation easement, requires land to remain permanently in agricultural production, making it more affordable. An example from the USA added additional restrictions including; organic certification, owner-operator living on the land, more than half the owner’s income derived from farming or horticulture, and resale restrictions to land value tied to the value of production (rather than market value). In some cases, it has been possible to raise the difference between market value and agricultural production value with crowdfunding platforms and fundraisers. A community may be willing to provide capital where they want to support an organically-grown local food supply and are prepared to support farmers or growers to provide this food.

In New Zealand, a restrictive covenant can be placed on the title, by a landowner to protect horticultural or agricultural land use in perpetuity. However, tax benefits to encourage this are not currently available in New Zealand.

Example

Vermont Land Trust: The Vermont Land Trust connects farmers with affordable farmland in different ways. They have purchased farmland at risk of development, placed a conservation easement on the land and on sold at an affordable price to the farmer with the plan best suited to the land. They have also worked with retiring farmers, matching them with a new farmer, securing funding to purchase a conservation easement and reducing the purchase price to the new farmer.

Source: https://www.vlt.org/

9.3 LICENCE OR PERMIT

A licence is usually a short-term right to occupy a property for a stated purpose and it does not give right to exclusive occupation (in contrast to a lease which can give the lessee exclusive use of the property). The person(s) in the incoming generation would not have any property rights; however, they would have permission to enter the land and use it for the stated purpose. The licence will generally only bind the original parties and provides insecure tenure for a short term. The owner receives fee payment as specified in the licence agreement and has capital gain/loss. A licence could be used to specify occupation of a building on the land for a defined period. Having a licence to occupy a building could suit a young person establishing a contracting business and requiring storage for contracting machinery.

9.4 COMMUNITY SUPPORTED AGRICULTURE

Community supported agriculture (CSA) may involve community-based financing and marketing with models varying according to producer and community demands. A common model involves producers giving a detailed estimate of production outputs and costs and group of families in the community paying a monthly sum to purchase all the produce. This leads to a strong producer-consumer relationship. CSA farms may offer participation in the farm operation which can provide entry to agriculture for the incoming generation.

Examples

Wairarapa Eco Farm, New Zealand: Wairarapa Eco Farm produces organic fruit and vegetables for members. Members subscribe for a season's worth of vegetables that are delivered weekly. Source: http://wefs.co.nz/

The Community Farm, Chew Magna, Somerset, UK: THE Community Farm has 500 members who own the fruit and vegetable production enterprise. A small team work on the 11 hectare property and deliver produce to 400 homes each week.

Source: https://www.thecommunityfarm.co.uk/about-us/

UK case studies: For examples of more model case studies from the UK see: https://communitysupportedagriculture.org.uk/what-is-csa/case-studies/

9.5 INCUBATOR SUPPORTED START-UP

A business incubator is an enterprise or organisation that supports young entrepreneurs set up a business by providing business support and resources. Incubator farms or horticultural units help aspiring farmers or growers start their career by providing land, equipment and mentoring.

Examples

The Groundswell Centre for Local Food and Farming, New York, USA: The Groundswell Centre supports people to develop agricultural skills with the incubator farm programme. For a small cost, participants have access to; a small plot of land for up to four years, equipment and tools, business and technical support. Source: https://groundswellcenter.org/the-incubator-farm/

The Factory, Palmerston North, New Zealand: A specialist business development organisation for startups in agriculture, agritech and agrifood.

Source: https://www.thefactorynz.co.nz/about-us

9.6 JUNIOR-SENIOR PARTNERSHIP

This is a partnership for succession starting with an employer-employee relationship and progressing to a business partnership. As described in Eip-agri Focus Group (2016), this is "An entry model, where a young / new farmer cooperates with an established experienced farmer, who needs (qualified) labour support and/or looks in the long run for someone to continue with the business. The new entrant can start as an employee, and later be a business partner with a defined share of input and output. There are also cases involving more junior and senior partners, working together in different legal enterprise frameworks. Typically, those partnerships set up a new legal business platform, which rents the fixed assets like land and buildings (sometimes also machinery) from the individual partners. This kind of entry model has great advantages especially where land prices and leasing rates are very high and where established farmers have a clear interest in continuation of their farm business."

This could similarly apply to horticulture in the form of a joint venture or sharefarming arrangement.

Example

Scottish sharefarming example: Sharefarming on a mixed farming operation shows how capital position and profit share for the two parties changes over time.

Source: https://www.fas.scot/downloads/case-study-stephen-withers/

9.7 LAND PARTNERSHIP

A land partnership that brings landowners and entrepreneurs together, often supported by a platform to match incoming and outgoing generations, and provide access to a range of services, tools and information.

Examples

Fresh Start Land Enterprise Centre, UK: Land partnerships "…to help landowners parcel out land and buildings on which 'land entrepreneurs' can establish new, independent businesses. The approach places strong emphasis on the process of forming and maintaining sound business-to-business relationships. By encouraging landowners and land entrepreneurs to combine resources to create new land enterprises provides the owner with new ways to diversify their operation. And it gives land entrepreneurs the chance to apply and develop their business skills without the prohibitive cost of land purchase." Source: http://freshstartlandenterprise.org.uk/land-partnership/

USA farm linking programmes:

Source: https://www.cfra.org/resources/beginning_farmer/linking_programs

FarmLINK Canada: is "… a national land listing and linking tool designed to connect those looking for land to rent, lease or buy, on farm employment, business partnerships in agriculture, or farm succession arrangements with landowners and retiring farmers who have farmland or other on farm opportunities." Source: https://farmlink.net/whatsfarmlink

Other: The European Commission EIP-AGRI Focus Group (FG) on New Entrants to Farming reference shown below provides definitions for several the alternative structures described above.

Source:
https://ec.europa.eu/eip/agriculture/sites/agri-eip/files/eip-agri_fg_new_entrants_final_report_2016_en.pdf

10. Recommendations to Facilitate Succession

This section provides recommendations to facilitate succession or remove barriers to succession in the horticultural industry. Information to support these recommendations has been sourced from literature, websites and interviews, both international and local, and from across the primary industries. Alongside each of the recommendations we comment on which of the following factors shown below contribute to facilitating succession or removing barriers to succession.

- Attracting more competent young people into the industry.
- Increasing the knowledge, skills, capability, and confidence to progress through the industry and achieve horticulture business ownership.
- Assisting with the succession planning process.
- Helping people understand options and identify opportunities available for succession.
- Increasing opportunities for succession.

RECOMMENDATIONS

Succession support and upskilling (Private sector, increase knowledge, assist with process, identify opportunities, increase opportunities):

Many horticultural businesses, including some family businesses, are corporate models, and arguably, professional development opportunities are more important for these models than for family owner-operator models. The level of innovation in horticulture requires a well-educated, high-tech cohort with specialised skills for management roles and future industry ownership and leadership. Separate specialist technical and management career training options may be required.

A number of interviewees and literature have suggested ways in which succession support and upskilling could be provided. Dooley and McLeod (2012) provided a report on this for the NZ dairy industry in 2012.

Some suggestions for upskilling include the following. These would need to be developed by people with educational and extension expertise.

- Governance training for landowners. MBIE, among others, offer this training and NZTE currently provide training vouchers to support this. These opportunities should be promoted, and possibly subsidised, by the horticultural industry.
- Workshops focused on succession planning e.g. similar to the Red Meat Profit Partnership (RMPP) Action groups. Some banks already run succession workshops for their clients.
- Succession discussion groups, and interactive, confidential sharing of ideas in small groups. The latter idea was popular with the dairy farmers in the succession focus groups (Dooley, 2012).
- Accredited training courses (e.g. from universities) suited to a range of roles e.g. specialist succession advisors, accountants, rural professionals, farmers and growers.
- A diverse range of written and internet resources.
- Workbooks and worksheets to assist with family succession planning (some already exist, see bibliography).
- Mentoring of young growers.
- Succession-related resources targeted to the younger generation. Most resources tend to be targeted to the owning generations and young people noted that there were limited resources relevant to them.
- Case studies and articles on a range of succession successes and failures.

Promotion of financial and business mechanism (Industry bodies, increase knowledge, assist with process, identify opportunities):

The mechanisms identified in this report could be promoted, including the more unusual ones that are not widely used, which may appeal to people both in the industry and those outside e.g. investors, community groups. People will need to consult with their rural professionals about which mechanism is best for them. However, having information about alternatives will enable them to proactively raise questions with their rural professionals. Rural professionals will need to be well informed on the diverse range of options.

Encourage growers to provide opportunities (Industry organisations and businesses, increasing opportunities):

Growers could be encouraged to provide an opportunity to include the incoming generation in the business, such as setting up a complementary business on their land to provide an alternative source of income. Packhouses and growers could provide employment retention schemes which include equity ownership: some are already doing this. In family situations, family could provide a leasing guarantee or leverage for the incoming generation until a bank sees sufficient cashflow to lend against. Family businesses could be encouraged to progress succession planning. These ideas could be promoted by HortNZ and other horticulture industry bodies to their growers.

Encourage young people to be proactive (Young people in the industry, increase knowledge, assist with process, identify opportunities, increase opportunities):

The incoming generation needs to be proactive in approaching the older generation e.g. asking for mentoring advice, approaching the outgoing generation and directly asking for opportunities to progress, bring up succession with the family. This can be promoted by their industry trainer and Young Growers Club.

Standardised sharefarming and lease agreements (Industry bodies, reducing cost, assisting with the process, ensuring use of comprehensive agreements):

The development of standardised sharefarming and lease agreements suited to horticulture could help to make these options more attractive and less costly for incomers. For example, Federated Farmers provide many agreement templates for farmers including a deed of lease for rural land ($518 for non-members, $104 for members, for 2 copies of the booklet). This is something HortNZ could consider.

Industry promotion (Industry bodies, attract competent new entrants):
The horticulture industry also attracts people outside the industry from business and other careers, often as investors. Horticultural careers could be promoted more widely to attract people from other industries with the specialist skills that are required in an increasingly high-tech industry like horticulture e.g. by HortNZ and industry sector bodies. New technologies will bring people into the industry with different interests. The potential to work along the value chain requires a wide range of expertise and could be of interest to people from non-horticultural backgrounds e.g. marketing (similar to DaiyNZ's recent campaign - GoDairy).

A platform for matching services and increased access to a range of tools and information (Industry with some government support, increase knowledge, assist with process, identify opportunities, increase opportunities):
UK, Ireland, USA and Canada all provide platforms for matching landowners with no successor with potential non-family successors and/or lessees who are unlikely to be related as well as matching, this service could promote mentoring support, education on transfer of farms or horticultural units, technical assistance, networking opportunities and information on succession mechanisms and processes. These have not always been particularly successful which was attributed to insecure tenure arrangements and other 'human factors' such as limited personal connection – something that is critical for two parties to engage in succession. In contrast, Ireland has a land mobility service to match farmers with a young person in the incoming generation looking to lease and/or sharefarm rather than land ownership (land rarely comes up for sale in Ireland) This has been very successful (50,000 acres and 450 arrangements in 5 years). http://landmobility.ie/
In New Zealand, these options are useful for those with limited capital, to have their own business and grow capital as a first step toward ownership.

A similar scheme be considered for New Zealand ownership, sharefarming, equity partnership and leasing opportunities. This could be useful for all primary industries, with collaboration between government and industry bodies to implement e.g. MPI could coordinate and co-fund with HortNZ, Beef & Lamb, DairyNZ. We advise reading the literature identifying the strengths and weaknesses of such schemes to inform decisions and planning (see Section 14 for summary of papers evaluating these schemes).

Registration of professionals (Industry and government, informed assistance for the succession planning process, more effective succession plans):
Farmers and growers often do not know who to consult for reliable informed succession advice. This could be addressed in one of two ways: a formal registration scheme with succession advisors completing a recognised qualification, with a register available to famers. Alternatively, a website could be set up where succession advisors register to promote their succession services and expertise (self-promoting). A matching services site could be the appropriate place for this information. A pan industry scheme would be most effective, which may benefit from some government oversight. If a formal registration scheme was preferred, this would require input from TEC and/or an industry professional body (e.g. NZIPIM) to determine what qualifies as a recognised qualification.

11. Conclusions

The primary industries are New Zealand's highest export earner contributing about three-quarters of our export income. About 10% of New Zealand's export income comes from horticulture and this is increasing annually. In the year ending June 2019, horticultural produce was worth NZ$9.5 billion with export income being NZ$6.2 billion (https://www.hortnz.co.nz/news-events-and-media/media-releases/new-zealandhorticulture-exports-grow-to-6-2-billion/). Furthermore, the COVID-19 crisis has demonstrated the importance of the primary industries to New Zealand. The primary industries have continued to operate and generate income for New Zealand while the majority of New Zealand's businesses have come to a standstill. Therefore, it can be argued that any initiatives that encourage the growth of the primary industries and attract skilled, entrepreneurial young people into the industry as future owners and leaders will be of considerable benefit to New Zealand and all New Zealanders.

In this research, we investigated financial and business models used in horticultural and agricultural succession. The majority of the models we identified, both nationally and internationally, are already being used in New Zealand. A few less commonly used models, which we described briefly but did not expand on, could be considered for horticultural business. However, these are likely to have limited application e.g. cooperatives, sharefarming which is rarely used in horticulture here, conservation easements, sale and lease back, and lease to own. A proposal for vine rights, which we have described, could potentially be investigated further. The more commonly used models such as leasing, equity partnerships, managed syndicates and contracting should be promoted within the industry.

Horticultural succession information and examples of horticultural succession are limited, hence, many of our examples are agricultural. The agriculture sector previously identified succession as an issue and has already developed resources and run succession workshops for their levy payers e.g. DairyNZ. Beef &Lamb, Red Meat Profit Partnership. The majority of these focus on the succession process for families, particularly in the early stages (identifying what family wants, evaluating business performance), after which it is suggested families work with their rural professionals for the next step. Many of these resources are generic enough to be useful to those in horticulture. The models we describe in this project focussed on the business and financial model structures, providing a more comprehensive description and example than is usually provided in succession resources. This information could be helpful to those in both horticulture and agriculture, enabling them to have informed discussion about succession options with their rural professionals.

Financial and industry recommendations to facilitate succession or remove barriers that could be undertaken were suggested.

- Industry succession support and upskilling for growers and the incoming generation would result in increased knowledge and understanding of processes and succession options (including the information in this report), leading to increased and more effective succession in the industry. This could also encourage growers to provide opportunities and the incoming generation to be more proactive (other recommendations). The agricultural industry has invested in such succession initiatives for several years: workshops and opportunities to discuss succession with others in the industry were popular with participants.
- Government and primary industry could investigate a platform for primary industry succession matching services (advertising opportunities and those seeking opportunities); tools and information; and possibly registration, or self-promoted identification, of rural professionals with specialist succession knowledge (another recommendation). There has been some success with matching platform initiatives such as this overseas.

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13. List of Interviewees

Dylan Barrett, Director and Registered Valuer, Preston Rowe Paterson, Tauranga

Ewen Cameron, retired Massey University Horticulture Senior Lecturer and Consultant, Palmerston North

Mike Chapman, CEO, Horticulture New Zealand.

Greg Dryden, Horticultural Consultant, Fruition, Nelson

John Gordon, Partner and Business Lawyer, Sharp Tudhope, Tauranga

Tony Hammington, Business Consultant and Succession Specialist, Otago and Southland

Paidi Kelly, Teagasc, Researcher, Animal & Grassland Research and Innovation Centre, Moorepark, Fermoy Co, Cork, Ireland.

Sandy Scarrow and Ruth Underwood, Horticultural Consultants, Fruition, Bay of Plenty

David Shaw, Business Partner, Rightway, Wairarapa and Wellington

Scott Barr-Smith, Commercial Manager at Southern Cross Horticulture, Bay of Plenty

14. Supporting Information for Recommendations

Bigelow et al (2016). U.S. Farmland Ownership, Tenure, and Transfer
This study provides a descriptive baseline analysis of land ownership and then focuses on more detailed aspects of land tenure. Policies and programmes to promote land accessibility in the USA are outlined and include; Farm Service Agency loan programs (provisions to target beginning and socially disadvantaged farmers), Transition Incentives Program (provides financial incentives to landowners to enter into leases of 5 years or more with (or land sales to) beginning farmers and ranchers), farm link programmes, conservation easements.

EIP-AGRI Focus Group (2016). New entrants into farming: lessons to foster innovation and entrepreneurship
Focus groups with 20 experts from across Europe compiled data on existing practical, educational and academic information available to new entrants to farming, focusing primarily on those with limited prior experience in agriculture. The primary aims of the focus group were to: clarify the main challenges faced by new entrants, identify potential business and organisational models, propose potential innovative actions and identify needs from practice and possible gaps in knowledge. The most common barrier identified was access to land. Other issues included access to labour, capital, housing, information, and markets. New

entrants addressed these barriers in a number of ways e.g. by diversifying their businesses, producing value-added products, becoming involved in sharing economies.

Local authorities were found to be particularly helpful in supporting new entrants in some regions, enabling access to land, helping new entrants make connections and facilitating local procurement to enable access to markets. Improving ICT access was generally found to be useful. Specific models developed by and for new entrants included: career-ladder farming, contract farming, crowd funding, crowd sourcing, community supported agriculture, equity partnerships, farming incubators, junior-senior partnerships, land partnerships, share farming, social enterprise and workers' cooperatives. Several of these approaches were identified as options to be explored further. In particular, land partnerships, share farming, social enterprise and workers' cooperatives which enable new entrants to enter farming, addressing barriers to land, capital, market and labour access.

Hersey and Adams (2017). Using contribution analysis to assess the influence of farm link programs in the U.S.

This paper evaluated 12 USA farm link programs (FLPs) to determine if FLPs are effective in facilitating farmland transfers between retirement-aged farmers without family successors and new farmers beginning their career. Although some FLPs experienced relative success, the lack of professional support systems, a heavy reliance on a self-serve internet database, and the presence of various external conditions such as high land prices and a preference to rent to established farmers prevented most FLPs from facilitating substantial numbers of farm transfers. Suggestions for improving the farm link programmes were provided e.g. establishing networks within farm communities, spending time recruiting landowners, and offering legal and financial support.

Ingram and Kirwan (2011). Matching new entrants and retiring farmers through farm joint ventures: Insights from the Fresh Start Initiative in Cornwall, UK.

The Fresh Start initiative in Cornwall set up a matchmaking service to identify and facilitate potential joint venture agreements between new entrants and older farmers, with an emphasis on long-term arrangements that would enable a new entrant to 'buy into' an existing farm business, gradually taking over managerial control. Research revealed a strong reluctance amongst participants to enter formal, long-term joint ventures due to differing motivations, expectations, and concerns about their respective responsibilities in the working relationship and about the validity of the legal framework. Only where a relationship had already been informally established was there a commitment to formalise a joint venture agreement. Future emphasis in policy should be on helping to facilitate and formalise existing partnerships rather than trying to artificially orchestrate matches where the parties do not know each other.

Valliant et al (2019). Fostering farm transfers from farm owners to unrelated, new farmers: A qualitative assessment of farm link services

The authors investigated farm link programmes in the USA. They identified farm linking is a useful service, making suggestions for improving listing services including monitoring medium term outcomes. They also suggested: online discussion forums and in-person mixer events to link people; full and fully funded succession planning assistance services; mentoring programmes, apprenticeships, internships, and employment initiatives; and economic incentives such as tax incentives.

Business Succession in the New Zealand Horticulture Industry

McCarthy, I

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